THE LEGAL ACCREDITATION PROGRAM : THE EXPERIENCES OF FOREIGN-TRAINED LAWYERS IN TORONTO

by

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A thesis submitted in conformity with the requirements
for the degree of Master of Arts
Department of Curriculum, Teaching and Learning
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Abstract

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This study examines the experiences of foreign-trained lawyers in the legal accreditation program in Toronto. Using qualitative research methods this study documents the experiences of the nine accreditation candidates and determines the factors that affected their integration into the Canadian culture of law. All participants in this study had obtained their law degree in a foreign jurisdiction and they were in the midst of completing the retraining required by the National Committee on Accreditation to become accredited in Ontario. The participants in this study included recent immigrants to Canada as well as Canadian citizens. Semi-structured interviews were conducted to explore the participants' experiences in the accreditation program and to understand their interpretations of their experiences. The participants' descriptions of the process of accreditation are put forth, as are their perceptions of their integration into the legal community. The data in this study reveals that the participants' experience of integration was affected by many factors connected to the administration and implementation of the accreditation program including: the evaluation of credentials; lack of co-ordination between the administrative bodies; high costs associated with retraining; lack of a support system; and pervasive lack of information. These factors heightened already onerous retraining conditions and undermined the candidates' integration into the legal profession.
For my Mother.
This study would not have been possible without the contributions of the participants. I am indebted to them for sharing their experiences with me. I am particularly grateful to Dr. Barbara Burnaby, my Supervisor, for her encouragement and guidance throughout this research project, and to Dr. Stacy Churchill, my second reader, for his critical comments and suggestions. Finally, I must thank my family for their patience and support while I was immersed in this research.
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CHAPTER ONE
INTRODUCTION

As we approach the turn of the century, global transformations are occurring that are changing the organization of the international community, increasing world migration patterns and resulting in unprecedented population mobility. The international movement of people changes the makeup of societies and it heightens awareness about issues relating to immigrants and foreign trained individuals. Immigration and settlement policy and practise are being challenged and shaped by these forces of globalization. Canada has not escaped the effects of these global trends. The annual increase in immigration into Canada since World War II has enhanced ethnocultural and linguistic diversity. Diversity often brings complexity. Canada's response to this phenomenon, as reflected in Canadian multicultural legislation and policy, has been fashioned in the spirit of an open society with a democratic tradition committed to human rights.

1.1 Statement of the Problem

This research considers the response of one sector of Canadian society, the legal profession, to the international movement of legal professionals as they seek to practise law in Ontario. The focus of this study is to examine the experience of foreign-trained lawyers in the legal accreditation program in Toronto. It is my intention to document the experiences of a group of participants in the legal accreditation program using qualitative research methods. This study looks at the first stage of access to the law profession for foreign-trained lawyers in order to discover their experience of obtaining entry into the accreditation program, their experience in the program, and their experience with structures and policies that make up the program. Specifically, my focus will be on the participants' perceptions of the legal accreditation program to discover the factors they identify that affect their integration into the Canadian culture of law.
1.2 Rationale for Research

The subject of my investigation is not the experience of exclusion from the accreditation program. Barriers to accreditation in the trades and professions in Ontario have been explored previously in research literature. Factors contributing to the exclusion of foreign-trained professionals from their respective fields in Ontario have been examined from the point of view of the individuals who are denied access or who do not get accredited (e.g. Cumming, 1989). More recently, the Legal Education Committee of the Law Society of Upper Canada reviewed its own system of accreditation of lawyers who have received their education and training in other countries, to determine a course of action for the improvement of the process (MacKenzie, 1996). In his report MacKenzie (1996) summarizes the present assessment procedures adopted by the body responsible for legal accreditation, the National Committee on Accreditation (N.C.A.). He identifies concerns therein, and he makes recommendations regarding the Law Society of Upper Canada's support of the accreditation program.

The scope of the MacKenzie report is limited by its purpose and the objectives of the Law Society, but highlights the need for further inquiry into many issues surrounding the accreditation program. The report states that some of the goals of the legal accreditation program are to redress the problem of exclusion and allow certain groups to have access to the law profession that have been excluded in the past, and further to maintain a standard of competence and ethics among Canadian lawyers. A related goal of the program is to promote diversity within the profession (MacKenzie, 1996, p. 26). However, the success of the accreditation process in accomplishing these goals is not clear. Moreover, the conditions at this initial stage of access into the profession as experienced by the candidates themselves has not been explored. The integration of diverse groups, both immigrant and Canadian born, foreign-trained lawyers into the profession through the accreditation program has not been considered.
The focus of my thesis is on the legal accreditation program in Ontario. This research documents the experience of the participants as insiders in the process using qualitative research methods. It offers a glimpse of the candidates' experience inside the legal accreditation program. This research will document the candidates' experience of entry into the legal accreditation process and what that means to them in terms of their larger access and integration into the law profession. I intend to investigate what happens to the barriers to accreditation once the candidate is in the accreditation program. I will document the experience of the process moving from legal accreditation to legal licensing in terms of integration into the community and professional culture of Canadian law. Having made it past the first gatekeepers of the profession these candidates are in a unique position to offer their insights into the process of accreditation. They can give a crucial perspective from outside the program seeking entry, as well as inside the program, ultimately voicing the concerns of the least powerful stakeholder in the process. Their insights into the process should be of assistance to those in a position to make improvements to the program, but they will also demystify the process for those seeking access to the profession. Their reflections on their journey through the process of accreditation will enlighten the process for others following this path.

1.3 Assumptions Underlying Research

Underlying my research is the assumption that the barriers and discrimination experienced by foreign-trained professionals seeking access to the professions do not disappear upon access to the accreditation program, but rather manifest themselves in different forms. This research attempts to identify and describe these forms through the candidates' experiences. Further, this research does not equate access into the legal accreditation program with access to the profession itself; barriers continue to present themselves even for the candidates that are successful in obtaining a place in the program.
1.4 Limitations on the Scope of Research

This research investigates the experiences of one group of foreign-trained lawyers in the legal accreditation program, who are presently in the process of retraining. The range of participants in this study reflects the experience of both immigrants to Canada and Canadian-born individuals who have received their legal training in other jurisdictions. The group of participants was confined to individuals retraining at two Toronto law schools. The study focuses on N.C.A. candidates who are doing course work and exams at the law schools, as opposed to candidates who were offered the option of taking challenge exams administered through the N.C.A. and independent of the law schools. The findings of this study are limited to this context. This study is not intended to be an evaluation of the legal accreditation program or the candidates who participated in the study. Furthermore, this study is not intended to determine the nature and extent of access to the legal profession by foreign-trained lawyers. It does examine the first stage of access as experienced by a group of foreign-trained lawyers in Toronto. This research may suggest larger questions regarding access to the legal profession as it examines factors that affect access and the conditions of access as experienced by this group.

1.5 Profile of the Legal Profession and Legal Accreditation in Ontario

1.5.1 Summary of Responsibilities of Self-governing Professions

The legal profession in Ontario is a self-regulated professional body governed by public statute, The Law Society Act, R.S.O. 1980, as amended. The governing body of the profession is the Law Society of Upper Canada and the governing council are the Benchers of Law Society, which include elected members of the profession, lay representation and appointees of the Lieutenant Governor in Council (Cumming, 1989). As a self-governing body the Law Society is exclusively entitled to grant licences permitting individuals to practise law in Ontario. Fundamental powers of self governance
include the admission and regulation of members through the setting of standards for entry to the profession, establishing the mechanism for admission, and maintaining the regulatory structure of the profession. With the right to self governance comes increased public accountability, the obligation to protect vulnerable interests and fairness of regulations. The primary obligation of a self-regulated profession, such as the law profession, is the protection of the public interest with respect to health, safety and welfare through the certification of competency and the granting of licences. The assessment of competence for foreign-trained lawyers is a process that includes accreditation: the establishment of equivalency of their foreign credentials with Canadian credentials as a starting point towards legal licensing in Ontario.

Throughout the accreditation process the legal profession must consider and reconcile the interests that it serves to protect. In exercising this obligation the profession must consider both the individuals' right to equality of opportunity and to equal treatment without unfair discrimination, as well as the rights to protection of the profession itself. The Law Society of Upper Canada (LSUC) Role Statement, which acts as a standard against which policy and programs can be measured, emphasizes the Law Society's dual commitment to serve the interests of both the public and the individual members of the profession (Benchers Bulletin, 1996). The LSUC Role Statement states,

The Law Society of Upper Canada exists to govern the legal profession in the public interest by,

- ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and
- upholding the independence, integrity and honour of the legal profession,

for the purpose of advancing the cause of justice and the rule of law. (Benchers Bulletin, 1996, p.3)
It is in the accreditation process for foreign trained lawyers that the Law Society must balance the rights of the professional body with the rights of those it is bound to protect. It must reconcile the issue of ensuring competency within the profession, while not unduly restricting entry or access to the profession itself through the use of licensing and certification powers. The accreditation issue triggers different reactions in the community and in the professional membership of the Law Society. For the community additional lawyers can increase the availability and affordability of legal services. The community may welcome foreign-trained lawyers, especially ones with particular language skills and cultural backgrounds who have the qualities to serve their needs. By contrast the membership may seek to restrict access to the Canadian market by foreign-trained professionals if open access translates into increased competition and loss of fees. Furthermore, MacKenzie (1996) reports that some in the profession feel Canadian jurisdictions have too many lawyers and that further admissions create problems of competence and quality of service, compromising legal standards in order to compete in a glutted market. Reports to the Canadian Bar Association National Conference in August, 1996 describe the population of Canadian lawyers as having increased more than 40% to 62,000 in the past ten years. Of these 42,000 are actively licensed and practicing. Each year the country's law schools turn out an additional 2,500 lawyers. Drastic unemployment in the law profession has been attributed to the surplus of practitioners, the downturn in the economy, cuts to government-funded legal aid and the high cost of establishing a law office. This has led to debate about allowing market forces to cut the ranks of the profession or using the self-regulating powers of the legal profession to set entry requirements to do so (Howard, 1996, August 24). It has been argued that a variable standard of admission into the profession based on the availability of lawyers would be unfair, and that standards must be clear, constant, justifiable in order to practice in the profession competently, and most importantly, in the public interest (MacKenzie, 1996; Cumming, 1989).
MacKenzie (1996) reports that it is not the function of the legal accreditation process to gauge the needs of the communities in Canada and ensure representation of all groups in the legal profession. However, promoting diversity in the profession is a policy of the Law Society, an unstated goal (if not the function) of the accreditation process, and falls within the Rules of Professional Conduct (Rule 28) which states that lawyers must not discriminate against individuals on the basis of race, ancestry, place of origin, colour, ethnic origin, gender, or age. Moreover, the profession must balance the interests of the regulating body and the public it seeks to protect with reference to the principles prohibiting discrimination articulated in the Ontario Human Rights Code, 1981, and the Canadian Charter of Rights and Freedoms. It is within this context that the legal profession's accreditation process must balance the public and the profession's sometimes divergent interests. And as a self-regulating body, the profession legally must resolve any conflict in its commitments in favour of the public interests.

1.52 Summary of Requirements for Admission to the Practice of Law in Ontario

The governing regulations of legal education reveal that there are currently four possible ways of gaining admission to the Ontario Bar. The first two, which do not require the completion of the Bar Admission Course, include meeting the academic call requirements as an Ontario law school dean or as full time faculty member of an Ontario law school, or passing the Ontario transfer exams having practised law for a required period of time in another Canadian jurisdiction (except Quebec and Alberta). The second two routes involve obtaining a law degree (L.L.B.) from a Canadian law school, or obtaining a "Certificate of Qualification" from the N.C.A. both of which permit an individual to enter the Law Society of Upper Canada's Bar Admission Course (B.A.C.) which certifies and licenses lawyers to practise law in Ontario.
The Bar Admission Course consists of a one year period of "articles" under a practising member of the Law Society and approximately six months of course work and exams in core areas of legal practice. Candidates must obtain an articling position and complete their articles to the satisfaction of their principal and successfully complete the course work and exams to be Called to the Bar. The Bar Admission Course is separated into three phases. The first phase prepares the students for work at the law firms by teaching them the skills they will need in the law office such as interviewing and drafting documents. The students then move into Phase Two of the Bar Admission Course, the articling period which lasts a year for most of the candidates. Upon completion of articles the student-at-law returns to the Law Society for Phase Three, which involves course work and the Bar Admission exams. The Bar Admission Course has staggered commencement dates for Phase One in the early summer after the end of the academic year. However, registration for the Bar Admission Course and the articling matching service which assists students in finding articling placements, along with the law firm articling interviews occurs a year in advance. At this point the regular Canadian L.L.B. students have just finished their second year of law school when they engage in the recruitment process during the summer prior to starting the Bar Admission Course. The Law Society Act also requires that, in order to become a member of the Law Society of Upper Canada and to be Called to the Bar and admitted as a solicitor in Ontario, a candidate must be a Canadian citizen or permanent resident of Canada, and further that a candidate must be of good character (Summary of the Requirements of Admission to the Practice of Law in Ontario, The Law Society of Upper Canada, 1996).

1.53 Summary of the Requirements of the Legal Accreditation Program

The documents reviewed on the accreditation program reveal that the Law Society of Upper Canada does not have specific regulations governing foreign trained lawyers. However, the regulation governing the requirements for admission to the practise of law in
Ontario speak to the accreditation process by dictating the B.A.C. educational requirements of an L.L.B. or its deemed equivalent through the "Certificate of Qualification" issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Committee of Canadian Law Deans (The Law Society Act, reg. 708, s. 23.(9)). The committee is made up of representatives from the Committee of Canadian Law Deans, members of the practising bar, and members involved with the administration of the provincial law societies (The National Committee on Accreditation, 1996). The Law Society does not permit applicants with a law degree from a university outside Canada to enter the Bar Admission Course in Ontario without this Certificate. This position is attributed not to "the quality of courses taken, but rather to the content of those courses which would not include the necessary Canadian law" (Information Regarding Transfer to the Practice of Law in Ontario From Applicants Qualified in Other Jurisdictions, 1996, p.1).

The data collected on the policies of the National Committee on Accreditation show that individuals with a foreign law degree (or non common law degree acquired in Quebec) who wish to become licensed to practise law in Ontario must apply to the N.C.A. to have their foreign legal training and experience evaluated in order to establish its equivalency to a Canadian law degree. The N.C.A. reviews the applicant's professional and training experience, as submitted by the applicant, and issues a recommendation describing the extent of further legal education the applicant must complete to meet the standard achieved by graduates of Canadian law schools who have earned a L.L.B. degree. A non-refundable evaluation fee (approximately $400.00 Canadian in 1995-1996 and $373 for year ending 1997) is required for an applicant's file to be considered and if supplemental documentation is required at a later date for re-evaluation an additional fee is charged (MacKenzie, 1996; National Committee on Accreditation, 1996). An official completed application includes: official transcripts of all grades, a description of course
contents of legal program taken including number of hours for each course, and number of classes a week provided through an official law school calendar or bulletin; LSAT score (if required); Test of English as a Foreign Language (TOEFL) score (if required); detailed chronological account of professional and work experience since leaving law school, and the accompanying fee (National Committee on Accreditation, 1996). Previously, the N.C.A. policy was to require an English competency test where the applicants had not undertaken their legal education in English, or where the applicants had not demonstrated proficiency in the language in their submitted materials. However, according to MacKenzie (1996) this policy has changed as of February 13, 1996 and the N.C.A. now states in a standard letter of recommendation that the applicant has not written a language test and the N.C.A. has no basis upon which to decide whether a test is needed. Thus, the determination of language competency is left up to the law schools and the Law Society.

The method of evaluation described in the N.C.A. documents indicate that the committee individually reviews each applicant's file and bases its evaluation of credentials on: legal academic and professional background; the similarity of the legal system of the country of origin of legal training to Canada's system of common law; the subject matter studied; academic marks and standing; the nature of the institution granting the degree; professional qualifications; and length and nature of professional legal experience. The committee makes a recommendation of retraining based on the candidates' credentials which indicates what credit, if any, the candidates will be given for their previous training and experience. The documents published by the N.C.A. suggest that applicants with legal training in common law jurisdictions or hybrid jurisdictions that combine both common law and civil law are generally considered for advanced standing. However, applicants with legal training in jurisdictions that have no common law elements are not usually given advanced standing in the absence of relevant professional experience. Canadian and non-Canadian candidates with foreign degrees are evaluated on the same standards. The
applicants are required to complete the retraining within a stipulated period of time as outlined in the N.C.A. recommendation.

If the candidates have superior qualifications, or have been Called to the Bar of another jurisdiction, or have practised in another jurisdiction, they may be given the option to take challenge exams in specified areas of Canadian law rather than attend law school. For this option the candidates must study independently and then sit examinations set by law school professors on the same basis as the examinations administered in the law school. There is an examination fee of $397 per exam for the year ending 1997 for each exam taken by the candidate (MacKenzie 1996). In other cases candidates may be asked to take further legal education at a Canadian law school with a specified program of subjects. In this option the candidates would not be subject to the N.C.A. examination fee but rather the law school admissions and fee structures.

If the candidate requires more than 2 years of retraining the National Committee may also refuse a Certificate of Qualification and give no recommendation for advanced standing requiring the candidate to complete a Canadian L.L.B. According to MacKenzie (1996), approximately two-thirds of the N.C.A. applicants in 1995-1996 were required to attend a Canadian common law school for further studies. Upon the successful completion of the requirements the N.C.A. issues a "Certificate of Qualification" which entitles the candidate to enter the Bar Admission Course licensing program at the Law Society of Upper Canada, and certifies that the candidate has "an understanding and knowledge of Canadian law, and knowledge equivalent to that of a graduate of a Canadian common law L.L.B. program" (National Committee on Accreditation, 1996, p. 3).

The National Committee on Accreditation (N.C.A.), then, is the first gateway to the law profession that the foreign-trained lawyer encounters when seeking to practise law
in Canada. The N.C.A. program determines if the candidate will proceed to the Law Society of Upper Canada's Bar Admission Course: the licensing process and the last gate before the lawyer enters the professional practise of law in Ontario. The relationship between the Certificate of Qualification and Admission to the Bar is distinguished by the N.C.A. which describes the Certificate of Qualification as a "preliminary step" (National Committee on Accreditation, 1996, p.11) in the education and training required for admission as a barrister and solicitor. The Certificate allows the applicant to proceed to the Bar Admission Course on the same basis as a graduate of an approved Canadian law school. However, the rules and regulations for admission as a barrister and solicitor lie exclusively within the jurisdiction of provincial law societies.

Similarly, the N.C.A. recommendation does not secure an applicant's admission into a law school in order to complete the recommended retraining. The law schools control their own admission requirements and decisions. Mackenzie (1996) observes that the number of candidates accepted and granted advanced standing by the N.C.A. is much greater than the number of available seats in the law school. The applicants must secure their own entry into the law school and complete the N.C.A. prescribed course of study in accordance with the regular law school regulations governing student academic standards and within the prescribed time period determined by the N.C.A. (The National Committee on Accreditation, 1996). Therefore the competition for the limited number of seats is great and not all N.C.A. candidates will get a position in the law schools to complete their retraining requirements.

1.54 Summary of the Law School Requirements for Admission of N.C.A. Candidates

The law schools each have their own policies governing the admission and administration of accreditation candidates. At all the law school in Ontario law schools the
number of enrolment places for N.C.A. students is limited. Some of the law schools cannot guarantee that any places will be available in a given year. Few schools can accommodate candidates that have more than one year of retaining to complete. There is a fee associated with the application process to law school and not one of the law schools confers a L.L.B. degree at the end of the required courses of study.

The Faculty of Law at the University of Toronto, Osgoode Hall Law School at York University, and the Faculty of Law at Queen's University offer the largest number of seats in the province of Ontario for N.C.A. candidates. The focus of this study is on the N.C.A. candidates in the law schools in Metropolitan Toronto. According to MacKenzie (1996, p.23) over the last two years the University of Toronto has registered between 18 and 20 N.C.A. students, (of 29 to 30 candidates offered admission) outside of the school's fixed enrolment of 170 students per year. It is unlike other law schools in the province in that it offers permission to fulfill the N.C.A. requirements and provides services on a fee per course basis, but does not admit the candidate as a regularly enrolled student. This translates into significantly higher fees for N.C.A. candidates as compared to the regular L.L.B. students. Mackenzie (1996) suggests that the law school considers itself a "subcontractor" (p.25) of the N.C.A. providing, for a fee, the services of courses and exams required by the N.C.A., assessing the students performance on these courses and exams and reporting these results to the N.C.A. However, unlike other law schools in Ontario the University of Toronto offers full-time and part-time admission under these conditions and it can accommodate N.C.A. candidates who have up to 60 credit hours (or 2 years) of law courses to complete. These conditions make the program desirable for a great number of candidates who have longer retraining requirements and for candidates that need to work while completing their retraining.
Candidates at the University of Toronto law school are evaluated for admission on their performance in previous legal studies and on "the assessment of the Admissions Committee as to whether or not the applicant is likely to be successful in the courses offered at the Faculty of Law" (University of Toronto, Faculty of Law, 1996-97 p. 69). The candidates are not required to write the Law School Admission Test (LSAT) or Test of English as a Foreign Language (TOEFL). The N.C.A. students are eligible for the Ontario Student Loan Program (OSAP) if they qualify, but not university financial assistance, faculty bursaries or loan funds. They have limited entitlement to university and Faculty of Law facilities and services. The candidates are subject to the grading scale of the faculty but are not subject to standing requirements. To be granted standing in any year a regular L.L.B. student must obtain at least a 50% in each subject and a weighted average of at least 60%. This rule is subject to the discretion of the faculty which may exercise to pass the student or require the student to write supplemental examinations in circumstances where the student would otherwise fail by the strict application of the rules. The N.C.A. candidates are not subject to the Appeals Procedure at the law school and they are entitled to write two supplemental exams in the event of a failure (The University of Toronto, Faculty of Law, 1996-1997). It should be noted that as of October 1995 the N.C.A. required candidates in the program to attain the overall grade point average requirement of the law schools they attend even if the law school itself did not require it (MacKenzie, 1996).

Osgoode Hall Law School at York University considers the N.C.A. candidates as students within regular enrolment. They are charged the same fees as regular L.L.B. students, receive the same services and access to facilities and resources as the regular students. They are entitled to apply for an Ontario Student Loan (OSAP) if they qualify and they are eligible for university financial assistance, bursaries and loans. The N.C.A. candidates at this faculty are subject to the same grading scale, standing requirements and
appeal procedures as the regular L.L.B. students. The admission documents are silent on the requirements of the Law School Admission Test (LSAT) and the Test of English as a Foreign Language (TOEFL). Part time studies are not generally available at Osgoode Hall Law School, nor is there the option just to write exams to meet the equivalency requirement without registering in the courses. According to the Access, Admissions and Academic Support Office at Osgoode Hall Law School at York University the faculty registered the equivalent of 15 full time N.C.A. candidates in 1996-97 academic year. This included candidates that have fewer than 30 credit hours (or one year) of retraining to complete, such as candidates who only have to write five exams. This faculty can accommodate students that have up to 45 credit hours (or one and a half years) of further retraining to complete. However, according to the Access, Admissions and Support Office at the faculty its N.C.A. enrolment typically consists of candidates with one year of retraining or less to complete. The primary criterion for assessing candidates for admission is the likelihood that the candidates will successfully complete the required program of study (York University, Osgoode Hall Law School, 1996-1997; O.L.S.A.S., 1997).
CHAPTER TWO
REVIEW OF LITERATURE

The literature on accreditation addresses barriers that foreign-trained individuals encounter as they seek access to their trade or profession. It focuses on factors contributing to non-accreditation and does not explore the experience of the accreditation process itself. With regard to the legal profession, in particular, there is no study that examines the process of accreditation for foreign trained lawyers and documents their experience in the program. The literature on accreditation in Canada is found within a number of different contexts, connected to discussions of immigration and multicultural settlement policies, equality legislation, and labour market participation. This review of literature attempts to place accreditation within an historical perspective, and present an overview of recent research into the issues surrounding accreditation.

2.1 Canadian Immigration and Settlement: An Overview of Patterns and Policies

The literature reviewed on the accreditation of foreign-trained professionals is framed in the historical context of Canadian immigration and multicultural settlement patterns and policies. These patterns reveal increasing levels of immigration to Canada over the last generation. Inglis and Birch (1994) describe patterns and policies of migration to Canada, noting that, as a modern industrial economy, Canada depends upon the inflow of population for growth and development. Since World War II, as Canada emerged as a modern industrial state, the immigration policy was directed towards achieving population growth and acquiring special skills that would assist in the developing industrial economy (Inglis & Birch, 1994).

Inglis and Birch (1994) comment that the increasing movement of peoples, changes occurring in technology, economic structures, political and educational
institutions, associated with the process of globalization have affected immigration patterns and policies. Changes resulted in Canada when, in 1967 the government removed immigration restrictions on race, colour and religion from its formal policy, thereby increasing the number of sources of immigration and promoting ethnic diversity in Canada. By 1990, a 5 year plan was introduced to increase immigration to 250,000 a year by 1993 while maintaining a balance between the competing objectives of the Canadian immigration policy, namely: the social, embodied in family reunions; the humanitarian, manifested in refugee status; and the economic, evident in the independent class (Inglis & Birch, 1994). Along with the decision to abandon racially and ethnically discriminatory entry policies came the establishment of specific criteria for selection which emphasized educational and economic factors for selection of independent or economic class immigrants who were not seeking entry under family sponsorship, or humanitarian claims (Inglis & Birch, 1994). In fact the Canadian immigration policy has become more restrictive with the introduction of selection criteria aimed at attracting highly trained immigrants who can contribute to Canadian society and the Canadian economy (Borowski & Richmond, 1994). Inglis and Birch (1994) argue that it is very difficult to establish entitlement to entry on economic grounds. For immigrants entering Canada in the independent class the selection criteria presently include rigorous consideration of their training, education, skills, experience, occupation, arranged employment, age, and language abilities (McDade, 1988; Inglis & Birch, 1994).

In order for these selection criteria to achieve their purpose of economic development of the country, it is necessary to ensure that immigrants "not only have the necessary skills and resources but use them after arrival" (Inglis & Birch, 1994, p. 21). Success of the immigration policy depends on the settlement policy of the government which ultimately affects the ability of immigrants to make the contributions of their skills for which they were chosen in the selection process. The support for new arrivals to
Canada will ultimately affect their ability to make the contributions of their skills to our
country for which they were chosen in the selection process. Inglis and Birch (1994) state
that, in accordance with the immigration policy in place designed to select immigrants on
the basis of their education and their ability to contribute to our economy, the proportion
of professionals in the immigrant population in Canada has increased. With the increase in
the population of highly skilled professional immigrants came the increase in the need for
settlement services to meet the needs of these individuals. As a result the need for support
services for this group has increased including services that properly evaluate their
qualifications and expertise and assist them in gaining or transferring the skills for entry to
their chosen profession (Inglis & Birch, 1994). In this way Inglis and Birch connect the
immigration and settlement policies of the Canadian government to the accreditation
procedure for foreign trained professionals. The authors point to the need for specific
services in settlement for the highly educated and trained immigrant, as a natural extension
of the changing immigration patterns

Borowski and Richmond (1994) also look at the international movement of people
and explore the effects of global forces on Canada's immigration trends and policies. The
authors identify world trends in a post-industrial globalized economy, consumption
patterns, and modern patterns of social interaction and culture. They contend that these
trends are producing global transformations that are accelerating and diversifying the
international movement of people. Ultimately, this phenomenon shapes immigration
policies. The authors note that while the actual numbers of people admitted to Canada has
increased over the last few years, the immigration policies have become increasingly
restrictive, giving preference to the individual with assets, education, language proficiency
and specialized skills that can be contributed to the economy. The authors take the
position that the immigrant is viewed by government policy makers as a tool for economic
development and policies are fashioned accordingly. The authors maintain that in the
1980s the Canadian immigration policies favoured entrepreneurs with business experience and an investment plan. In 1992 the policies placed value on new business skills. At the same time the criteria for accepting independent immigrants was changed to encourage only those immigrants with very high skills in the growth industries of banking, computer software, telecommunications, and the advanced technology industry (Borowski & Richmond, 1994).

Although the authors do not address the accreditation issue specifically, they effectively describe the impact of changing global world migration patterns on Canadian immigration policies. They connect the changing selection criteria of new professional immigrants to economic considerations: namely their ability to contribute to the economy because of their specialized skills and education. Beyond the scope of Borowski and Richmond (1994) work, but suggested by their analysis, is the actual experience of economic integration of foreign-trained professionals and their ability to contribute to the labour force the skills for which they are selected.

McDade (1988), in a social policy discussion paper, examines many issues touching on accreditation and specifically focuses on the lack of recognition of foreign credentials in Canada. However, she first places the issue into a larger context. She links the support available to immigrants in Canada seeking accreditation for their trade or profession to their degree of classification under which they were accepted for entry to Canada. She distinguishes the entry criteria of categories of permanent residents: Family class, Convention Refugees and Designated Classes, and the Independent Class. She clarifies that it is the Independent Class that is assessed on the basis of the accumulation of a minimum number of points from a range of factors including education, skills, experience, occupation, arranged employment, age, and knowledge of official languages (McDade, 1988; Seward, & McDade, 1989). She points out that it is, therefore, the
independent or economic category that undergo assessment of their academic attainment and professional or trade status prior to their arrival into Canada by immigration officers who seek verification of their academic and occupational credentials. McDade states that "Independent applicants who must be licensed in Canada to practise their profession are required to obtain evidence from the authorities in the province in which they intend to settle that they will be able to meet the licensing requirements" (McDade, 1988, p. 26).

However, in reality, a provincial professional licensing board cannot provide evidence or guarantees in advance that candidates will be able to practise their profession in that province. They can simply advise if the applicant's qualifications could lead to certification, provide information on certification process and inform applicants of other licensing requirements. Independent class applicants assessed by immigration officers on their academic and occupational credentials, and selected for entry on this basis because of their likelihood of becoming licensed in Canada in their chosen profession, or trade, in fact have no assurances from the professions themselves of their acceptance into their occupation. The author points out that the individual must sign a form to this effect and that this is the extent of their counselling on the matter (McDade, 1988). McDade's paper highlights the contradictions inherent in the selection process, particularly apparent in this category, whereby professionals, screened and selected on the basis of their credentials, may be seriously misled as to the ability to transfer those skills and credentials into Canada.

2.2 Multiculturalism in Canada

In order to place accreditation of foreign-trained professionals in a context it is necessary to examine the multicultural policies which developed in response to changing patterns in immigration and settlement in Canada. The literature reviewed reveals that, historically, in Canada, the development of multiculturalism policies took place in response
increasing ethnic diversity and within a bilingual framework which has been characterized in the literature as "structural biculturalism" (Dorais, Stockley & Foster, 1994, p. 375). It has been argued that the intertwined policies of bilingualism and multiculturalism emerged as a consequence of the combined effect of Canada's basic (English and French) national dualism, the cultural resistance of its immigrant minorities to this English and French domination, and the fact that in Canada language and nationality were recognized social categories with attendant rights (Dorais, Stockley & Foster, 1994). Recognition of ethnocultural and ethnolinguistic differences, woven into the structure of the founding act of confederation in 1867, resulted in cultural and linguistic dualism which became a structural political element in Canada.

Formal legislative recognition of multiculturalism as a policy began with the Royal Commission on Bilingualism and Biculturalism in 1965 which recommended a formal official policy of multiculturalism for Canada. The four principles adopted in the multicultural policy include: equality of status; emphasis on Canadian identity incorporating ethnocultural pluralism as constituting the essence of Canadian identity; choice in lifestyle and cultural traits in shaping society; and protection of civil and human rights, whereby no Canadian should be discriminated against for any reason (Dorais, Stockley & Foster, 1994). This policy was followed by the Official Languages Act 1969 which made English and French co-equal languages in the federal civil service, Crown agencies, and the courts and provided support for official language minorities and promoted bilingualism.

In 1971 the liberal government of Pierre Trudeau declared multiculturalism an official policy. This was followed by the Charter of Rights in 1982 that entrenched the principles of multiculturalism in the Canadian Constitution. In 1988 the Canadian Multiculturalism Act brought into legislation the policy and principles, furthering the
transition from policy to implementation. The Canadian Multiculturalism Act has two main provisions. The first emphasizes the preservation of cultural heritages and the protection and enhancement of cultural and ancestral languages. The second promotes policies, programs and practices which enhance understanding and respect for diversity and that ensure that all Canadians of all origins have an equal opportunity to obtain employment and advancement in federal institutions (Dorais, Stockley & Foster, 1994).

Review of the literature reveals that the unique Canadian approach and definition to multiculturalism has impacted on the implementation of the policy (Dorais, Stockley & Foster, 1994; Foster, 1994). The literature reviewed suggests that the development of Canadian multicultural policy reflects a focus on the protection of human and civil rights over cultural and linguistic survival (Dorais, Stockley & Foster, 1994). This movement was reflected in provisions included in the Charter of Rights in 1982, s.15.1, which explicitly forbade discrimination based on race, national or ethnic origin, colour, or religion. Canadian multiculturalism originally insisted on individual right to preserve their own culture and ethnicity within the goal of national harmony; however, it has developed into a focus and concern for "equality, societal participation and national unity" (Dorais, Stockley & Foster, p.374). The literature reviewed describes the Canadian multicultural policy as distinctive in that it was adopted within a bilingual framework and included the goals of "the preservation of basic human rights, the elimination of discrimination, the strengthening of citizen participation, and the reinforcement of Canadian identity" (Foster, 1994, p. 588). The emphasis in multicultural policy on the participation in society, equality and the elimination of discrimination is significant in the discussion of accreditation since accreditation is the first step towards participation in their chosen profession for foreign trained professionals.
In addition to the Charter of Rights 1982 and the Multicultural Act 1988 the literature reviewed suggests that multicultural principles are also reflected in equity and education policy, legislation on racial discrimination, sexual discrimination, human rights, affirmative action and equal opportunity. The literature suggests further that education poses particular difficulties in implementing the multicultural policy because it requires the co-operation of two levels of government: the federal government has jurisdiction over immigration, settlement and multicultural policy, and the provincial government has jurisdiction over for education policy (Dorais, Stockley & Foster, 1994; Foster, 1994). The difficulties inherent in this area of implementing multicultural policy in education directly affect the experience in the accreditation program for foreign trained professionals who must access arms of the professional systems of education for retraining.

Lanphier and Lukomskyj (1994) in their paper describe changing attitudes towards settlement as reflected in the changing role of the government in providing services, and place settlement within the context of multicultural policy in Canada. The authors argue that economic integration as a desirable goal is presently not within the parameters of the federal government's settlement policy as represented by the Canadian Multiculturalism Act 1988. They suggest the Multiculturalism Act emphasizes social and culture adaptation, and represents a commitment to the principle of respect for cultural diversity. It is an instrument for promoting equality, fostering anti-racist policies, and in expanding opportunities for new comers to Canada. However, it does not assist in, or promote the development of, social, economic and political integration necessary to maximise an individual's potential contributions and participation in our society. The authors identify a need in Canada's long range multicultural settlement goals for a "uniform and widely accepted system of assessment of language, education, skills and abilities to facilitate entry (or re-entry) into the job market." (Lanphier & Lukomskyj, 1994, p. 369). The authors speak to the issues surrounding accreditation of foreign trained professionals by
emphasizing the importance of settlement services, including education, language and occupational retraining programs, to achieve successful social and economic integration of immigrant professionals.

An examination of the development of Canadian multicultural policies lays a groundwork for discussions of accreditation, providing both the historical perspective and a theoretical framework upon which my investigation into accreditation is based. While the literature reviewed is somewhat critical of the implementation of the multicultural policy in all its various forms, it is clear is that the principles of multiculturalism are entrenched in the political and legislative fabric of our society. The principles of multiculturalism are defined in terms of equality of opportunity, full and equal participation in society, and respect for diversity of members of Canadian society, increasingly expressed in terms of the protection of human rights and civil rights, and in the elimination of discrimination. However, it is also clear from the literature reviewed that implementation of multicultural policy has not always achieved these principles in practise. Difficulties arise in the implementation of multicultural policies at various locations in society when co-ordinated efforts of more than one actor, region, and level of government are required. The result is that the principles of multiculturalism, defined in terms of societal participation and found in Canadian policy and legislation, are not always apparent in the implementation of the policy. For example, barriers to accreditation undermine equal and full participation in society and run counter to the multicultural policy. This is evident when reviewing patterns in immigrant participation in the labour market that reveal striking patterns of inequity in earnings and occupational status relative to the level of education, and in comparison to similarly educated Canadian born individuals.
2.3 An Overview of Immigrant Patterns of Participation in the Labour Market: Access and Outcomes

The literature reviewed establishes that the issues of accreditation are grounded in the principles of multiculturalism. However, they find first expression in the context of labour market participation; that is, it is when foreign-trained individuals seek to enter the labour force and practise their trade or profession certain conditions become apparent. It is useful, then, to briefly outline the literature on patterns of access and outcomes in the labour market participation for immigrants.

2.31 Access: Extent of Participation

Sloan and Vaillancourt (1994) conducted a micro economic analysis of the economic experience and outcomes for immigrants, synthesizing Canadian research and presenting patterns. Using largely empirical data to identify Canadian trends, the authors examine the participation of immigrants in the labour force, the earnings of immigrants, the occupational status and attainment of immigrants, and some factors that affect occupational status and barriers to immigrant achievements in the labour market. In reviewing Canadian research in this area they find that, in general, the rate of participation among immigrants is higher than among Canadian born (Sloan & Vaillancourt, 1994; Richmond & Kalback, 1980). They attribute this, in part, to the concentration of immigrants in metropolitan areas, which have a higher overall labour force participation. Country of origin and length of stay are considered to be factors affecting outcomes and participation in the labour market (Sloan & Vaillancourt, 1994). The literature suggests that there are differences in labour market participation between immigrants according to country of origin. For example men from Western/Northern Europe and women from Asia having the highest rates of participation in the labour market. Furthermore, the participation of immigrants in the labour force increases with length of stay in Canada (Sloan & Vaillancourt, 1994; Richmond & Kalbach, 1980; Beajot, Basavarajappa &
Verma, 1988; De Silva 1991; McLaughlin, 1985). Conversely, these authors found unemployment experience to be lower among immigrants compared to Canadian-born, declining further as the length of stay increased (Sloan & Vaillancourt, 1994; Richmond, 1984; De Silva, 1991).

2.32 Outcomes: Occupational Status & Earnings

Sloan and Vaillancourt (1994) also describe immigrants' earnings, basing their comments on several multivariate studies (Chiswick & Miller, 1990; Borajas, 1988; Boyd et al, 1981; Chiswick & Miller, 1988; Boyd, DeVries, & Simkin, 1994) which use various sets of data to estimate earnings or income functions, including census micro data, general data on household income or total individual income. Briefly, they found that foreign-born individuals appear to be at a disadvantage when they first arrive in terms of earnings, when compared with those born in Canada. However, they catch up to the Canadian-born individuals after 10 to 20 years in the labour force. The researchers qualify their findings stating there are significant variations between immigrants according to their country of origin, and that a range of factors affecting earnings must be taken into account when determining patterns of this kind. Nevertheless they found that individuals from the Caribbean and Latin America appear to be at a distinct disadvantage in terms of earnings as compared to individuals from Northern/Western Europe and the U.S. who are at an advantage. The authors observe that language skills appear to have an impact on immigrant earning and, therefore, immigrants from English speaking countries are at an advantage compared to non-English speaking immigrants.

The authors also point out that the rate of return to school is lower for immigrants than for the Canadian born which also affects immigrants ultimate earnings. Additionally, the longer the period required for further education, the more marked the difference between the rate of return to school for immigrants than for Canadian born (Sloan and
Vaillancourt, 1994). While the pattern suggests greater overall labour market participation of immigrants than that of Canadian born, it also points to the nature of that participation and the economic outcomes of that participation. Citing four major multivariate studies on the occupational attainment of immigrants in the Canadian labour market, the authors suggest that immigrants receive a lower rate of return on education than Canadian born, and that difference increases with the level of schooling (Sloan & Vaillancourt, 1994; Boyd et al, 1981). Not surprisingly they conclude from their analysis of the research, that foreign schooling reduces occupational status and family income (Sloan & Vaillancourt, 1994; Ornstein, 1981). The patterns show that gender differences exist in terms of immigrant participation in the labour force in terms of occupational status: foreign-born males do better in the labour force than foreign-born females (Sloan & Vaillancourt, 1994; Boyd, 1984). Finally, based on a longitudinal study on occupational attainment and monthly income, the authors conclude that immigrants from Europe and the U.S. do better than immigrants from elsewhere in the world (Sloan & Vaillancourt, 1994; Satzewich & Li, 1987).

In summary, foreign-born individuals show greater participation in the labour force than Canadian-born individuals, but earn less, initially, than Canadian-born workers. Immigrants in Canada attain lower occupational status than Canadian relative to their education and their return on their education is lower especially for immigrants at higher levels of education. Immigrants return to school less frequently than Canadian-born individuals for retraining, and this pattern is more pronounced as the length of the retraining increases. Furthermore, labour market participation is affected by their language skills. Immigrants from English speaking countries do better in the labour force than those from non-English speaking countries, and immigrants from Europe and the U.S. do better than from elsewhere. The result is that immigrants do not achieve the same return as Canadian-born individuals on their education and qualifications in terms of the nature of
their economic participation and the economic outcomes of that participation. They are underemployed relative to their skills and education and they do not earn as much as Canadian-born individuals. The literature reviewed suggests that the nontransferability of education attained overseas accounts, in part, for the lower return on education for immigrants. Sloan and Vaillancourt (1994) suggest that, given the findings in their research, there is a "strong case for the government ensuring appropriate recognition of overseas education and qualifications since there is a possibility that overseas schooling and qualifications may be inaccurately judged as inferior" (p.486).

2.33 Factors Affecting Occupational Status: Recognition of Credentials and Establishing Equivalency.

Sloan and Vaillancourt (1994) concede that discrimination in the Canadian labour market against immigrants is unanswered in the studies examined. However, they quote De Silva (1991) in accounting for the difference in labour market experience between immigrants and Canadian born, attributing it to "a difference in the market evaluation of Canadian versus non-Canadian education and experience" (Sloan & Vaillancourt, 1994, p. 482), and commenting that there is no way to tell if this represents prejudice against foreign credentials, or ignorance of their true value, or even perhaps lower usefulness of non-Canadian credentials in the Canadian labour market. In describing the nature of immigrant participation in the labour force the authors comment on the "lower average occupational attainment of immigrants relative to native workers, and lower return on overseas schooling and qualifications" (Sloan & Vaillancourt, 1994, p. 483). The literature in this area suggests that immigrants have difficulty converting educational attainment into occupational status. The labour experience of the immigrants in Canada is characterized by the inability to transfer skills, knowledge and education acquired overseas which results in a lack of correlation between education and occupational attainment in Canada (Sloan & Vaillancourt, 1994; Chiswick & Miller, 1988).
Inability to transfer education and skills acquired abroad because of the lack of recognition of credentials is at the core of the accreditation process. McDade (1988) in a discussion paper on the recognition of credentials describes the typical route to economic participation for immigrants in their respective trade or profession. She comments that immigrants who wish to work in their chosen profession in Canada must first establish the academic equivalency and value of their qualifications in terms of Canadian standards. For the legal profession in Canada this is done by the N.C.A. Demonstration of academic equivalency is only the starting point in the immigrant efforts to work in their profession or trade in Canada and it is separate from any further licensing requirements within the individual trades and professions. Nevertheless, it is one of the most significant hurdles the foreign-trained individual faces and it can effectively bar people from entry to their chosen occupation. McDade (1988) states that information on academic equivalency currently available to professional organizations in Ontario is inadequate. The report urges that a central repository on degrees and equivalencies is needed to reduce the subjective judgement inherent in documentation review by associations to facilitate a more objective evaluation of foreign trained professionals in Ontario. McDade (1988) comments that, throughout Canada, colleges and universities evaluate the equivalency of foreign academic qualifications of university applicants, and advise immigrant services, licensing bodies and government employment officials, although they have neither the resources or the mandate to provide this kind of service. Their information is constrained by the expense and time consuming nature of accumulating accurate and current information on international education. Further she describes such information as limited to the most common academic programs from which most of the applicants and immigrants to that province come. Applicants outside of this information pool, with uncommon training, or who have emigrated from less known regions of the world, face a purely subjective and individualized assessment of credentials. Furthermore, none of the provinces have a specific ministry or office responsible for global monitoring. Therefore immigrant service
organizations confront this problem of credentials and have little resources and expertise to assess equivalency to Canadian standards (McDade, 1988).

Review of literature in this area suggests that difficulties with recognition of credentials is one possible explanation for the failure of many immigrants to attain occupational status in Canada that is at the level of their educational achievement (Seward & McDade, 1988). Lack of recognition of foreign education qualifications is particularly acute for immigrants from areas other than North America and Europe. According to McDade (1988) lack of information on how to judge equivalency of non-Canadian degrees, training, and experience leads employers and professional associations to take Canadian or American qualifications over other foreign qualifications and to require foreign-trained individuals to complete further training in a costly and time consuming effort to meet Canadian standards of equivalency. Such expenditures of time and money may prove beyond the resources of the new comer to Canada.

2.4 Barriers to Accreditation

2.41 Introduction

McDade (1988) in her discussion paper outlines the federal government's policy responses to the issue of accreditation up to 1988. She comments that one of the first responses can be found in the Special Committee on Visible Minorities in Canadian Society (1984) which called the state of affairs in Canada on the evaluation of foreign credentials for licensing and recognition of credentials "haphazard, arbitrary and inequitable" (McDade, 1988, p. 33) and called for co-operation between the federal and provincial levels of government to investigate the methods and organizations for evaluating non-Canadian degrees and credentials and licensing and other practices (McDade, 1988, p. 33). This was followed by Judge Rosalie Abella's Report to the
Commission on Equality in Employment (1984) which examined equity issues in the
treatment of physically challenged, women, and indigenous and visible minorities, in
employment across Canada. Judge Abella made reference to problems that professions
encounter with credentials. Her report was followed three years later in 1987 by the
Standing Committee on Multiculturalism (Canada, House of Commons, 1987) which
reiterated the need for the federal government's involvement in resolving issues pertaining
to foreign credentials calling for the government to take an advocacy role in examining
licensing and accreditation practices and working with professional associations to enable
immigrants to establish themselves (McDade, 1988).

In reviewing the federal government's policy response to the issue of barriers to
the recognition of foreign credentials, McDade (1988) identifies difficulties in responding
to this issue. The author observes that defining the scope of the problem is difficult since
the barriers vary according to province of settlement of each immigrant, occupation of
the immigrant and the country of origin (McDade, 1988). Therefore, no one policy
response can be formulated to address all the issues. Further, the author comments that
the implementation of the federal policy in this area is complicated by the need for co-
ordinated action by two levels of government, both provincial and federal, and
governments representing diverse regions across Canada. Moreover, while one approach
to the problem may be in the establishment of a national body to deal with issues in
accreditation in a consistent manner across Canada, consistent or standardized treatment
may not translate into equality or equity between varying groups. Finally, a large obstacle
to responding to the problems is the legislative autonomy of some of the professions. At
the provincial level, the province must address and respect the autonomy of professional
associations and educational institutions under provincial legislation. Their independence,
especially in administrative and entry procedures, makes it difficult to develop a course
of action for accreditation procedures, let alone implement it (McDade, 1988).
McDade (1988) brings the accreditation and the recognition of credentials back to immigration and settlement policy, commenting that the objective of the federal immigration policy is to promote national prosperity through the contributions of a highly motivated, well-educated work force. She suggests that the issues of credentials could be discussed in the context of race relations and multiculturalism, as well as in the context of human rights and labour market inefficiency. The author suggests that Canada’s treatment of foreign-trained professional credentials contradicts multicultural policy, human rights legislation and undermines the objective federal immigration policy. She describes the federal government's commitment to multiculturalism as "not only an independent policy initiative but also an expression of federal responsibility for the preservation of human rights" (McDade, 1988, p. 35).

2.42 Evaluation of credentials

One of the most systematic and current reviews in the literature of the barriers to accreditation in the organizational structures of regulated occupations in Ontario is the Cumming (1989) "Access! Task Force on Access to Professions and Trades in Ontario". This report had a mandate to review rules and procedures affecting entry to professions and trades to determine the discriminatory effect on foreign trained individuals. The Task Force met with representatives from the governing bodies of the occupational groups to be reviewed, related voluntary associations and educational institutions, community groups, government departments and others interested in the subject. Their report considered occupations regulated under public statute, including law, medicine, and engineering, as well as occupations regulated under private statute, including chartered accountancy. They also examined groups regulated directly by the government, including real estate brokerage and the trades as a whole coming under the Ministry of Skills Development (Cumming, 1989).
One of the first, and most frequently identified, difficulties encountered in this process by foreign-trained individuals is the problem of obtaining accurate, consistent assessment of prior learning for the purposes of certification or licensure. The Task Force identified prior learning assessment as the fundamental problem facing occupational bodies and foreign trained candidates. The Task Force found that "significant weaknesses" (Cumming, 1989, p. xii) exist in the method of assessing the background of the applicants and suggests that the initial screening of candidates and assessments of equivalency is the most difficult, yet least standardized and subject to the most abuse (Cumming, 1989). The report found a range of practises in this area, including occupational bodies giving no credit for previous training, to ones that have informal practices that rely on information from informal sources. Where a structure for assessment did exist in the profession, the Task Force found that the manner of obtaining information often was unsystematic, subjective and ad hoc and reflected a general reluctance to give credit to education outside of formal education programs (Cumming 1989).

The literature reviewed describes a variation in the degree of objectivity in the procedures used across professions to review credentials (McDade, 1988; Seward & McDade, 1988; Cumming, 1989). McDade's report (1988) reviewed the entry processes of 25 professions regulated by professional organizations. McDade (1988) found that even when systematic evaluation procedures were in place, the evaluation might be neither objective or even accurate. Reviewing the entry requirements for the professions in Ontario, McDade (1988) comments on the weaknesses of the processes that could have an impact on individuals with foreign training seeking accreditation in Canada in their chosen occupation. She attributes most of the weaknesses to the subjective evaluation methods generally found at the first stage of the certification process (assessment of prior learning) which allow for the introduction of bias into the evaluation of credentials in the review of the candidate's academic training to assess Canadian equivalency.
The literature suggests that an additional difficulty at this stage of entry is providing the required academic documents to assessment bodies including providing original certificates, transcripts and translations and interpretation of credential documents (Seward & McDade 1988). Similarly, the Cumming Task Force (1989) identified individuals with credentials from countries having low or irregular immigration rates to Canada, and individuals lacking complete documentation from Third world or former eastern bloc countries as being particularly vulnerable to inaccurate assessment because of lack of information on their credentials. The failure to assess prior education appropriately is attributed, in the literature, to a lack of expertise in comparative education and assessment, few physical resources by way of materials or facilities in order to conduct proper assessments, and overall lack of familiarity with increasingly diverse international educational systems, all of which are critical for validation of documents and accurate assessments (e.g. Cumming, 1989; McDade, 1989; Seward & McDade, 1989). To compound the difficulties inherent in assessment procedures, the Task Force (Cumming, 1989) found that the early stages of professional accreditation can be the most confusing and frustrating for the individual being accredited due to an absence of objective criteria for assessment, and lack of counselling/guidance about the process of accreditation.

2.43 Retraining

Judge Rosalie Abella's Report to the Commission on Equality in Employment (1984) made reference to problems that professions encounter with credentials. Abella identifies "Canadian experience" (p.50) as an impossible qualification for immigrants to fulfil, and describes non-recognition of skills, education and training as barriers to employment for immigrants, deploring the "waste of human and intellectual resources" (p.50) and attributing underemployment of immigrant professionals as having "less to do with their professional qualifications or qualifiability and more to do with the insularity of some professional organizations" (p.50). The retraining process itself is costly, time
consuming, restricted in capacity, admission criteria and locations, and plagued by lack of information to the candidates being assessed. The literature reviewed identified a scarcity of programs and facilities for retraining, and patterns of inequality in access to, and participation in, education and training opportunities (Cumming, 1989; Abella, 1995). Moreover, few sources of financial support, fewer part-time learning opportunities which permit students to work and support themselves, and a lack of co-ordinated information systems about learning opportunities impact negatively on the adult professional learner (Abella, 1995).

The literature identified individuals with foreign training as a group whose training needs are not adequately being met because their needs are not being clearly and accurately identified. The result is training requirements that are more onerous than necessary (e.g. Cumming, 1989). In some cases the rigorous retraining may amount to the repetition of entire degrees. Most individuals in this position can not afford such expense without a means of substantial support during this period (Seward & McDade, 1988). McDade (1988) points out that unreliable methods of credential assessment lead to a lack of consistency in retraining required as between candidates with similar credentials. In her report, McDade (1989) comments that where retraining is needed to practise a profession in Canada, evaluation services must have reliable methods of evaluation of credentials and they must accurately identify specific gaps in the education background of foreign trained applicants "to ensure the consistency of retraining requirements for individuals with similar backgrounds who are resident in different provinces and/or attend different institutions" (McDade, 1988, p. 44).

The Task Force (Cumming, 1989) called for a mechanism for assessment of prior learning of people seeking entry into occupations in order to consolidate and systematize current Ontario based assessment of level and type of learning completed by foreign
trained individuals to determine the equivalency of their education. This systematized mechanism would consider formal and informal education, and knowledge gained through experiential learning. The mechanism would assess prior learning, validate documents, disperse information, counsel and direct candidates to appropriate retraining. However, the Task Force (Cumming, 1989) acknowledges that the preparation, administration, and development and articulation of the prescribed standard for licensing must remain with the occupational associations responsible for ensuring competence of members for public protection. The report stops short of interfering with professional autonomy.

2.44 Review procedures

The literature examined found the avenues for review of equivalency decisions as limited, or altogether lacking, and often, procedurally unfair. Moreover they are expensive and largely ineffective in the face of legislative professional autonomy (McDade, 1988, Cumming, 1989). Some professions have no right of appeal. More commonly, however, the appeal process usually involves review to an appeal committee, or board, of the profession. In some professions a further right of review is available by way of the courts, which have the power, under defined circumstances, and regarding certain findings, to reverse the decision of the licensing body, or declare the legislation governing the profession unconstitutional. The literature reviewed reveals little information on actual litigation in this area (McDade, 1988; Cumming, 1989). McDade (1988) speculates the effort and expense to mount a Charter challenge to have a piece of legislation declared unconstitutional could well be beyond the limited resources of the average immigrant.

An additional avenue for review is the provincial Human Rights Commission which has the jurisdiction to investigate complaints of discrimination in employment. Although each province varies somewhat in its prohibited grounds of discrimination, the grounds relevant to credentials include discrimination on the basis of national or ethnic origin,
ancestry, nationality or citizenship, and place of origin. The Ontario Human Rights Code (1982) has additional prohibition against discrimination in employment by specifically prohibiting the self-governing professions from excluding membership on the basis of ancestry or place of origin. Where there is adequate cause, a board of inquiry will be appointed by the commission to hear the complaint. The legislation governing the powers of the board vary between provinces, but most provincial human rights boards can award compensation to the complainant for losses and damages, for humiliation, pain and suffering caused by the discrimination. Changes in policies and procedures may be required of the professional association in the event of the inquiry ruling against them, as well as the specific relief granted to the complainant such as admission to the profession, or recognition of the credentials (McDade, 1988).

McDade points out that remedies available to the Human Rights Commission are more extensive, and access to them is easier, than the courts, making this forum more popular for grievances of this nature. However, McDade comments that interviews with commission officers reveal a reluctance to interfere with assessment procedures used by various professional associations, stating "many commissions obviously do not feel competent and/ or empowered to question the absolute right of a professional association to designate some persons as being unqualified to practise that profession" (McDade, 1988, p. 22). This reluctance makes it difficult, if not impossible, to substantiate valid complaints because the commission is unwilling to question the use of specific procedures for entry into the profession. The autonomy of many professions becomes a stumbling block in the review procedures. Therefore, although this avenue of review may be more popular, it is no more effective than a review by way of the courts.


2.45 Language

Language testing was also identified as a significant barrier to accreditation due to inadequate or inappropriate training. Literature in this area identifies language as impacting on performance on exams at all stages, and ultimately, affecting certification and licensing in the profession (Fernanado & Prasad, 1986; Cumming, 1989; McDade, 1988; McDade & Seward, 1989). Acquiring general language skills as well as developing the specialized language skills of the particular profession is a significant part of the integration into the profession. However, this aspect is not addressed in most professional accreditation programs. The responsibility for acquiring language skills is left to the candidate and a few training programs. Specialized training programs are not available. Cumming (1989) identified delays in gaining admission to the language programs, shortages in language training allowances and support, difficulties that some categories of immigrants have in qualifying for language training programs, and lack of specialized language training programs as barriers in this area to accreditation. The Task Force (Cumming, 1989) identifies these services as essential to the integration of foreign trained individuals in the work force. McDade (1988) goes further and states that technical and professional language training and testing are needed for specific occupations and professions and both must be occupation-specific.

A related difficulty is that language is not tested at all by many occupations and professions. Instead, licensing certification exams are used as the language screen. Cumming (1989) found that without a formal language assessment test designed to determine the level of linguistic proficiency specific to the profession there is no guarantee that the level of proficiency required to write the licensing exam reflects language appropriate to the occupation, or that the fluency required is being adequately assessed. The Cumming report (1989) observes that language proficiency screening on a licensure test or exam is only appropriate if the level of language proficiency required on
the test corresponds with that necessary to perform competently in that occupation: that is, occupation specific language is tested (Cumming, 1989). The literature reviewed points out that many professions and occupations rely on standardized English language tests despite the fact that these standardized tests are weak predictors of performance and do not test for occupation specific language (McDade, 1988; Cumming, 1989). Moreover, the literature suggests the need for clear guidelines for licensing exams and information on the setting of scores must be provided for test takers. Furthermore, licensing tests must reflect a level of competency appropriate to the occupation or professional standards (Cumming, 1989).

2.46 Licensing testing

Fairness in the administration of licensing tests, and fairness of the standards adopted on licensing examinations was called for in the Task Force report (Cumming 1989). Requiring accreditation candidates to write additional certification and licensing exams beyond examinations associated specifically with equivalency training, while necessary, engenders further expense. The process can be expensive and time consuming. While licensing testing necessarily assesses competency, knowledge, and proficiency of a candidate for license or certification based on standards established by the licensing body, the Task Force takes the position that the test must be able to differentiate between candidates who already have certain competencies required to practise their trade or profession without compromising the public's health, welfare and safety, and those that do not (Cumming, 1989).

The Task Force (Cumming, 1989) comments that in many cases licensing tests have not been developed by objective test development and analysis procedures reflecting recognized professional standards which would ensure they are culturally sensitive, administratively fair, and that the standard adopted in the exam reflects the required level
of competency and the level of fluency in language appropriate to the occupation. Commenting on the issue of fairness in the licensing exams, the Task Forces urges that,

The test developer must determine precisely what is "competence" for the occupation under consideration, not necessarily only according to what is taught in academic programs relating to the occupation but according to actual practises carried within the occupation as reflected in identifiable competencies. The questions selected and the formats used should reflect this standard. The test developer must also bear in mind questions of language, cultural response, and fair use and administration of the test, and the test must be responsive to candidates by being capable of providing them with the feedback they require to improve their skills. Clear guidelines for the use of the test and the setting of scores must be provided for test takers (Cumming, 1989, p. xxxv).

2.5 Equality, Participation and Integration

The literature reviewed reveals that the accreditation issue can be examined from a number of perspectives, including, but not limited to, a human rights perspective, an economic analysis, or in terms of the Canadian immigration and multicultural settlement policies. These various frameworks are reflected in the literature (e.g. McDade, 1988; Cumming; 1989; Mata, 1994; Maraj, 1995). Mata (1994) discusses the socio-economic effects of lack of accreditation, contending that multiple barriers to accreditation and certification undermine the success of Canada's foreign-educated immigrants which ultimately affects the economy, race and ethnic relations, human rights, and immigrant integration and mental health (Mata, 1994). The economic cost to the country include income costs, tax loss, unemployment payments and social assistance payments. Like other authors he too comments on the waste of human resources and labour market
inefficiency (Mata, 1994). He further argues that intercultural and interracial tensions are heightened as a result of the alienation experienced through discrimination. Drawing on the Human Rights legislation he points out that non-accreditation as a result of lack of recognition of foreign credentials is discrimination on the basis of place of origin and is prohibited not only according to our Human Rights legislation but also our Charter of Rights and Freedom. In terms of integration and settlement, Mata (1994) argues that economic integration determines not only survival in our country but integration into other spheres of life.

More recently, Maraj (1995) in her thesis research takes this line of inquiry further and examines not only the economic, but the affective impact of occupational dislocation among foreign educated immigrant professionals who are unsuccessful in their attempts to become accredited. Maraj's study of a group of independent class immigrants from various professional backgrounds found that the occupational dislocation that resulted from non-accreditation had a greater affective impact than economic impact on this group of immigrants, despite underemployment and unemployment within the group.

The literature reveals that accreditation is increasingly becoming connected to equality arguments as protected in multicultural policy, enshrined in the Charter of Rights and Freedoms, as well as Human Rights legislation and expressed in terms of occupational dislocation, economic and social participation in society (e.g. Mata, 1994; Maraj, 1995; McDade, 1989, Cumming, 1989). The Canadian Charter of Rights and Freedoms guarantees individual equality before and under the law and the right to equal protection and equal benefit of the law under section 15. Therefore, foreign-trained professionals can invoke the Canadian Charter in court to challenge the entry processes of professions for discriminatory practises. Similarly, section 2 of the Canadian Human Rights Act provides for equal participation of all members of Canadian society. The Canadian Human Rights
Commission (CHRC) has the authority to initiate a complaint against an employer under federal jurisdiction where employment practices result in barriers based on prohibited grounds of discrimination. For the purposes of accreditation of foreign-trained individuals these could include grounds based on race, national or ethnic origin. Because professional associations and trade certification boards do not fall under federal jurisdiction this legislation does not apply to accreditation within provincial regulated professions. Recourse must be pursued under the provincial legislation. Nevertheless, the CHRC has the general power to discourage discriminatory practices throughout Canada by means it considers appropriate. It has been argued that recognition of credentials of persons trained outside Canada can be justified by our international human rights obligations wherein we are a party to the International Covenant on Civil and Political Rights, which commits Canada to ensuring the rights of all individuals in its territory without discrimination on the basis of national origin (McDade, 1988).

2.6 Concluding Remarks

The focus of my research is on the experience of legal accreditation. The purpose of my study is to document the experience of the candidates in the program and to determine factors affecting their experience of integration into the Canadian culture of law. An implicit component of the theoretical framework of this research is an understanding that the principles of equality of opportunity, full and equal participation in society, and respect for diversity, are fundamental legal norms in our country that are entrenched in the political and legislative fabric of our society. Furthermore, the legal profession, as a self regulated profession, has a duty to the public, which it serves, to uphold these rights. As the domain which has developed equality rights and principles, giving them legal expression and protection in our society, the legal profession must take a leadership role in ensuring these principles are upheld in professional accreditation.
CHAPTER THREE
METHODOLOGY

3.1 Qualitative Research Design

A qualitative research design was used in this study because it was considered the most appropriate for uncovering the experience of the process of accreditation. This design seeks to understand how people make sense of their lives. The method adopted in this study is dependent on the participants who articulate and describe their stories and attitudes about the accreditation process. The design elicited description of the experience in the program from the candidates. Themes revealed by the data influenced subsequent methodological decisions, generating questions and further lines of inquiry. Patterns in the experience emerged and the design of the inquiry followed inductively (Bogdan & Biklen, 1992; Lincoln & Guba, 1985). The emergent design allowed for an open-ended investigation that did not predetermine aspects of the N.C.A. program to be studied. At the outset a pilot study was conducted using three participants from one law school. The pilot study was designed and conducted in a similar manner to this research study in order to establish feasibility to develop and refine the procedure and methods to be used.

3.2 Sample Selection

The investigator was contacted by individuals enrolled in the legal accreditation program in two Toronto law schools. The participants were selected on the basis of personal judgement as to their suitability as sources for the proposed study. The participants in this study responded to invitations to be interviewed that had been posted at law schools in Metropolitan Toronto. The "snow ball" technique (Taylor & Bogdan, 1984, p.20) was used to identify and invite further candidates to be interviewed. Each selected participant was in the second term of attending courses at a Toronto law school in fulfilment of the requirements of the National Accreditation Program (N.C.A). To this
extent each candidate had experienced the curriculum, instruction, assessment and environment of the program. All of the participants were self-identified as N.C.A. candidates. The candidates selected for this study were foreign-trained lawyers, both recent immigrants to Canada and Canadian-born candidates. There was no selection specification as to age, gender, country of origin, or country of original qualification. Fourteen candidates who met the selection criteria were interviewed. This study focuses on the data from the interviews of nine of the candidates. Data from the interviews of the remaining five candidates was incorporated as a members check to enhance the credibility of the findings. The nine interviews reflect a range of experience of foreign trained lawyers in the accreditation program: three are immigrants from third world countries; three are immigrants from first world industrialized countries; and three are Canadian-born foreign trained lawyers.

3.3 Data Collection: Sources and Methods

Data collection and analysis were framed to seek understanding and meaning in the data, how the participants made sense of their lives and experiences, and how they interpreted their experience in the accreditation program. To this end the study elicited description and interpretation of the experience in the N.C.A. program from the participants in the form of oral histories, attitudes and opinions through interviews. During the interviews the candidates were encouraged to elaborate, clarify, and discuss in detail their understanding of events, people, roles, procedures and policies. The interviews of the candidates in the program were the primary source of data. However, other sources and methods of data collection were used in conjunction with the interviews including investigating public documents and records on the legal accreditation program and policies obtained from the N.C.A., the law schools in Ontario, and the Law Society of Upper Canada.
The first phase of the study involved conducting a review of literature to place the research in a Canadian socio-political context and to establish what was known in the research about accreditation. Access into professional accreditation programs, specifically the legal accreditation program, was the point of departure for this study from the literature reviewed. Although no *a priori* theory was developed regarding the factors affecting the experience of integration for N.C.A. candidates, this research was informed by the literature reviewed throughout the study.

The second phase of the study involved collecting data on the legal accreditation experience by interviewing candidates in the legal accreditation program. Initial contact was made with the candidates through notices posted at the law schools and subsequently through references by other candidates. Initial communication with the candidates occurred by telephone contact at one law school and by a group meeting of candidates in the program at the other law school arranged by a previously contacted candidate. This initial contact allowed for in-depth discussion and questions about the research project, which ultimately enhanced the rapport with the participants for the interviews that followed. In order to be sensitive to the comfort and convenience of the participants the location of the interviews varied at the request of the candidates. Most of the interviews took place on the university campus, some in the private study rooms at the law school libraries. Two interviews took place off campus. At the outset of each interview consent documents were executed after the research study and the consent forms were explained, and issues of confidentiality and anonymity and other conditions of the interview were agreed upon. The candidates were offered a transcript of their interview and a summary of the findings of the research; however not all of the candidates requested such copies. At the end of each interview field notes were recorded about the course of the interview and thoughts on the developing data.
Eleven of the candidates were interviewed formally once. The length of each interview ranged from a minimum of approximately one hour and to a maximum of 90 minutes. A second interview was agreed to for clarification of the data collected. However, only two of these eleven candidates required and requested a second interview in order to capture all of their comments and observations. The remaining three candidates were interviewed as a group at their request. While this joint interview did not formally constitute a focus group, it did offer an alternate and additional form of data collection for the study. This group was interviewed once for approximately 2.5 hours.

Both the individual and group interviews were conducted using a semi-structured interview guide (Patton, 1980). All of the candidates were asked at the outset to describe their educational and personal background, how and why they came to be in the legal accreditation program in Toronto, their experience of the program and their meaning of that experience. The interview was structured to the extent that it invited the candidates to discuss their past history, the details of their experience in the program, and to reflect and make meaning out of that experience (Seidman, 1991). The interview process was sensitive to the concerns of the candidates and the course of the interviews was largely directed by the candidates' comments and the conversational interaction. In the group interview this was heightened by the interaction between the candidates, as well as between the candidates and the interviewer. Each interview increasingly defined the focus of the research and influenced the lines of inquiry that were pursued in subsequent interviews and alternative forms of data collection.

3.4 Data Analysis

Analysis of the data took place simultaneously with its collection in a circular and integrated process. Each interview was conducted, transcribed and read multiple times. Preliminary recurring themes were identified in the early readings of the transcripts. The
data was divided into smaller units that could stand on their own in terms of meaning relevant to the research question. Codes were established to reflect these units of meaning. The data was then coded for these units of meaning. The process of coding involved scanning the data at the outset and highlighting larger elements at the centre of the experience described. Then, a more focused review of the data was done, reviewing the data line by line, to identify more precisely emerging themes. This process produced extensive lists of themes from each data source which were then considered for common elements relating to the accreditation experience. The common elements in these themes were clustered together into categories. Throughout the data was compared and analyzed between sources. This process focused the research. Variations between the candidates' experiences were sought out and negative cases that ran counter to the emerging themes were examined to test and assess the quality, accuracy and credibility of the emerging findings and further define the developing patterns. Alternative explanations of the data were sought throughout the analysis. Throughout the process analytic memos were kept to develop ideas. Analytical matrices and displays were used to structure and to make meaning of the data. As the investigation unfolded the themes and patterns crystallized into categories. The final application of these categories to the data yielded its organization and basic framework which, in turn, rendered the meaning made of the data for this study.

3. 41 Limitations

Certain decisions were made in this study with regards to the methods used to collect the data which affect the analysis presented in this paper. This study was conceived and conducted after a pilot study was conducted. The focus is on a number of candidates (9) in the legal accreditation program of two law schools in Metropolitan Toronto. The sample represents a range of experience of three groups of students. Two of the groups are recent immigrants to Canada. One group are from a single Asian country and had
original professional training in that country. The second group are also recent immigrants to Canada from European and North American countries. The third group are Canadian-born with European and North American legal training. The additional interviews of candidates that formed the member checks are Canadian-born, but received legal training in Europe, North America and Australia.

The characteristics of the candidates' country of origin and country of original legal training were not predetermined by the original selection criteria because the total number of candidates in the N.C.A. program at the two law schools was so small as to prohibit latitude to specify age, gender, country of origin, citizenship, and country of original training as selection criteria. The study is necessarily limited by this focus, and the findings are reflective of the range of experience in the legal accreditation program at two law schools of these particular groups.

Ethical concerns arose around issues of maintaining the anonymity and confidentiality of the students who participated in the study. These were heightened by the fact that the participants were in the midst of the accreditation process and their participation in the study might have had repercussions. To address these concerns, efforts were made to conceal the identity of the participants in the study. Profiles of the candidates were constructed that leave out identifying personal details and events. Necessarily the profiles appear vague, lacking in specific detail, and instead offer general information about the participants. The focus of the study was kept on the experience in the program to the exclusion of detailed personal information. This approach to the profiles prevented analysis of the data across certain lines that would have revealed the identity of the participants. Instead the participants are broadly clustered in similar groups. The selection of the clusters was informed by the literature reviewed, was mindful of the research question being studied, and maximized the range of experience captured by the
interviews conducted. Ethical concerns also precluded a detailed comparison of the experiences of the candidates from the two different schools in case of identification of the participants resulted. Although some of the experiences are clarified as location specific, the object of this study was not to engage in an evaluation of the implementation of the N.C.A. program at the two law schools.

Another concern at the outset of this study was the extent of co-operation of the institutions that administer the N.C.A. program. This co-operation varied drastically between institutions and affected the availability of private documents and records. Time and budget consideration limited the scope of the study to the two Toronto law schools and limited the number of administrative interviews that could be conducted, keeping the focus of the data collected on the candidates themselves and their experience in the program.

Finally, in terms of limitations, the candidates were selected on the basis of their being in the accreditation program at the time of the study. It became clear that their location in the midst of the process had advantages and disadvantages in the data collection. Their experience in the program was very close to them as they lived it every day. However, the candidates did not have the distance from the experience to reflect upon it in their meaning making. Their location in the process affected their perspective. The process of the interview itself became part of the reflection and meaning making process. Although the interviews were set up to permit the candidates the room to move through their background, to a description of the experience of accreditation, to reflection and meaning making of the experience, it became clear very early that the participants were very focused throughout the interviews. They were either unwilling, or unable, to delve into meanings from their experiences, and when they did so they were obviously constrained in their interpretations. This was overtly reflected in some of the candidates'
asking to speak off the record and off tape, and another candidate's laughing and gesturing to avoid certain topics. Moreover, although the participants are highly articulate and highly educated, their legal training flavours their expressions of their experiences. The interviews were focused and intense, sprinkled with legal analysis, and shorter than originally anticipated.

3.42 Data Verification

Qualitative research has rigorous research procedures to ensure trustworthiness of the data. Issues of validity, reliability, generalizability and subjectivity differ between qualitative and quantitative research approaches. In order to ensure the trustworthiness of the data collected in this qualitative research project, efforts were made to enhance its credibility, transferability, dependability and confirmability (Lincoln & Guba 1985). To strengthen the credibility and the dependability of the findings, the study was organized so that the culture of legal education, and specifically the legal accreditation process, could be explored in depth. The pilot study permitted an initial exposure to legal education and the accreditation process in the legal domain. Months of research and of collection of documents on legal education and the accreditation program took place prior to the interviews. Multiple methods and multiple sources of data collection were also used allowing for triangulation of the findings between different sources of data. Negative case analysis was employed to test the findings against one another and to test developing patterns in the data. Internal consistency in the data was checked between the different sources of data and charts were made to display the variations in the data emerging from the sources and incorporate these patterns into the findings. Although the total number of interviews conducted was small (14), this number approaches 50% of the total number of the candidates in the accreditation program at the two Toronto law schools, thus increasing the representativeness of the sample (subject to the qualifications previously described). Moreover, the number of interviews conducted permitted member checks to
be conducted between the 9 candidates' experiences focused on for this study as against the experience of the additional 5 candidates interviewed who also met the sample selection criteria. The interviews of the additional 5 candidates were transcribed and coded to corroborate or refute the emerging themes in the data from the original 9 candidates. Peers in the legal field were also consulted throughout the process in order to check the data interpretation and emerging analysis.

Although the parameters of this study did not permit an extensive number of in-depth interviews, my own background as a lawyer provided grounding in the culture of law and allowed the focus of the study to flow from my own experience. To account for my own position in this study as researcher and insider in the legal education process, and to enhance confirmability, a self interview was conducted at the outset of data analysis in order to identify and to "bracket" (Tesch, 1990, p. 94) my own preconceptions about the accreditation process given my legal education. This interview was conducted by another lawyer who was able to assist me in identifying my own position on issues. Additionally, a journal was kept to record, and account for, methodological decisions that were made throughout the study, to record the schedule and logistics of the study, and to develop analytic memos throughout the investigation. The transferability of the findings of this study have been clarified by delineating the focus and specific context of this research. Description of the historical context and background information in accreditation and legal education distinguish and limit the application of the study. The limitations and parameters previously identified qualify and define the meanings made in this research and form the basis of the transferability of the findings. In qualitative research replication of results is difficult because of the dynamic, complex and interactive nature of the phenomenon studied and approach taken to the research. Instead qualitative research advocates dependability of results. In this study claims of generalizability are not made, but rather the findings of the study are distinguished by the specific context of the study. The
understanding arrived at by the research is delineated to the participants investigated under the circumstances of the study. The aim of this study is to provide an understanding of the findings and their implications that will resonate with the reader.
CHAPTER FOUR
DATA ANALYSIS: FINDINGS

4.1 Introduction

In an effort to address concerns of confidentiality and anonymity, and to protect the identity of the participants, the names of the participants have been changed and the law schools that they attended have not been identified. A profile of the participants as a group is presented initially in the findings. This is followed by general individual profiles giving some background on each of the participants in this study. The individual profiles give a basic understanding of the general level of education and the nature of the legal training of each of the participants. The individual profiles serve as the departure point for the subsequent experiences of the participants in the accreditation program as they give a brief synopsis of the events leading up to retraining in the program. The nine participants in this study have been given the pseudonyms "Abby", "Betty", "Charles", "Dennis", "Ellen", "Frank", "Greg", "Howard" and "Irene".

4.2 Profiles of the Participants

4.21 General Profile of the Participants

Each of the nine participants in this study is a candidate in the legal accreditation program in Toronto. They were interviewed while taking courses at law school in Toronto to satisfy the N.C.A. requirements to obtain a 'Certificate of Qualification' enabling them to enter the Bar Admission Course towards licensing. All participants have a foreign law degree. All participants speak English as their first language or English has been the language of their education. Six of the participants in this study are recent immigrants to Canada. Three of these participants were born and raised in a South Asian country and they received their law degree in that country. A further two participants were born and
raised in the United Kingdom and they received their legal training in the British Isles. One participant is an American citizen with an American law degree. These six participants range in their category of entry into Canada from sponsored spouse, student visa, to independent class. At the time they were interviewed all of these six participants described themselves as "Landed Immigrants". However, their status at the law school and the Law Society was that of permanent resident. In addition to these six participants, this study included three Canadian citizens with foreign law degrees who were in the accreditation program. The Canadian participants were from the Greater Metropolitan Toronto area. Two of the Canadian participants received their legal training from the United States and one was trained in the United Kingdom. As a group the participants in this research study reflect different personal circumstances and family responsibilities, and they represent a range of ages. The sample chosen reflects the perspectives of single persons without children, married persons without children, and a single parent with children. The participants range in age from mid twenties to mid forties. An overview of the characteristics of the participants in this study is presented in Table 1.

Four of the five additional candidates that were interviewed and whose data served as a members check for verification purposes were in the process of obtaining their "Certificate of Qualification" and were taking courses for that purpose at law school in Toronto. The fifth additional candidate had recently completed retraining at a Toronto law school and had received a "Certificate of Qualification" from the N.C.A. This candidate was at the articling stage of the licensing process. All of these additional candidates were Canadian citizens who had received their foreign legal training either in the United Kingdom, the United States or Australia.
Table 1. Research participants' characteristics

<table>
<thead>
<tr>
<th>Participant</th>
<th>Place of legal training</th>
<th>Language</th>
<th>Status of Entry</th>
<th>Means of Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Asian trained participants</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Abby</td>
<td>South Asia</td>
<td>L1-English *</td>
<td>sponsored spouse</td>
<td>spouse</td>
</tr>
<tr>
<td>Betty</td>
<td>South Asia</td>
<td>Language of instruction-English</td>
<td>independent class</td>
<td>self</td>
</tr>
<tr>
<td>Charles</td>
<td>South Asia</td>
<td>L1-English *</td>
<td>student visa</td>
<td>self</td>
</tr>
<tr>
<td>U.K. trained participants</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Howard</td>
<td>U.K.</td>
<td>L1-English *</td>
<td>Canadian citizen</td>
<td>family &amp; OSAP</td>
</tr>
<tr>
<td>Ellen</td>
<td>U.K.</td>
<td>L1-English *</td>
<td>sponsored spouse</td>
<td>spouse</td>
</tr>
<tr>
<td>Frank</td>
<td>U.K.</td>
<td>L1-English *</td>
<td>sponsored spouse</td>
<td>spouse &amp; family</td>
</tr>
<tr>
<td>U.S. trained participants</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greg</td>
<td>U.S.</td>
<td>L1-English *</td>
<td>Canadian citizen</td>
<td>family &amp; OSAP</td>
</tr>
<tr>
<td>Dennis</td>
<td>U.S.</td>
<td>L1-English *</td>
<td>sponsored spouse</td>
<td>spouse &amp; OSAP</td>
</tr>
<tr>
<td>Irene</td>
<td>U.S.</td>
<td>L1-English *</td>
<td>Canadian citizen</td>
<td>family &amp; OSAP</td>
</tr>
</tbody>
</table>

* L1= first language
Table 2. Research participants' education and experience

<table>
<thead>
<tr>
<th>Participant</th>
<th>Education</th>
<th>Foreign legal license</th>
<th>Foreign legal experience</th>
<th>Canadian legal experience</th>
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<tbody>
<tr>
<td><strong>South Asian trained participants</strong></td>
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</tr>
<tr>
<td>Abby</td>
<td>B.Com. M.Com. L.L.B.</td>
<td>No</td>
<td>3 years- law related corporate work</td>
<td>no</td>
</tr>
<tr>
<td>Betty</td>
<td>B.A. L.L.B. L.L.M.</td>
<td>Yes</td>
<td>9 years- Barrister</td>
<td>no</td>
</tr>
<tr>
<td>Charles</td>
<td>B.Com. L.L.B.</td>
<td>Yes</td>
<td>law practise</td>
<td>1 year- law related tribunals</td>
</tr>
<tr>
<td><strong>U.K. trained participants</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Howard</td>
<td>B.A. L.L.B.</td>
<td>No</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Ellen</td>
<td>L.L.B.</td>
<td>No- in progress</td>
<td>Yes</td>
<td>no</td>
</tr>
<tr>
<td>Frank</td>
<td>L.L.B. L.L.M.</td>
<td>No</td>
<td>Yes</td>
<td>no</td>
</tr>
<tr>
<td><strong>U.S. trained participants</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greg</td>
<td>B.A. J.D.</td>
<td>No</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Dennis</td>
<td>B.A. J.D.</td>
<td>Yes</td>
<td>Yes &lt; 1 year as attorney</td>
<td>no</td>
</tr>
<tr>
<td>Irene</td>
<td>B.A. J.D.</td>
<td>No -in progress</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>
Table 3. N.C.A. retraining requirements for research participants

<table>
<thead>
<tr>
<th>Participant</th>
<th>Retraining required by N.C.A.</th>
<th>Challenge exam option</th>
<th>Courses required by N.C.A.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>C T C E CP A T F</td>
<td>o a o v i r d r a</td>
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<td>n x r i v o m u m</td>
<td>s p d i c i s i</td>
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<td>s t o e l e n t l</td>
<td>i r a d i s y</td>
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<tr>
<td></td>
<td></td>
<td>t a c u s t e r t t e</td>
<td>r a t i v e</td>
</tr>
<tr>
<td></td>
<td></td>
<td>i o n</td>
<td></td>
</tr>
</tbody>
</table>

**South Asian trained participants**

| Abby            | 45 credit hrs/1.5 yrs | no       | • • • • • •          |
| Betry           | 5 exams               | yes      | • • • • • •          |
| Charles         | 45 credit hrs/1.5 yrs | no       | • • • • • •          |

**U.K. trained participants**

| Howard          | 30 credit hrs/1 yr    | no       | • • • • • •          |
| Ellen           | 30 credit hrs/1 yr    | no       | • • • • • •          |
| Frank           | 30 credit hrs/1 yr    | no       | • • • • • •          |

**U.S. trained participants**

| Greg            | 30 credit hrs/1 yr    | no       | • • • • • •          |
| Dennis          | 30 credit hrs/1 yr or 8 exams | yes | • • • • • • • • • • • • |
| Irene           | 30 credit hrs/1 yr    | no       | • • • • • •          |
Table 2 presents the participants' education and legal experience. It should be noted that it is very difficult to make comparisons between degrees from different educational systems without first laying a foundation in comparative education analysis. Such an analysis is beyond the scope of this research. However, in presenting the data on the education backgrounds of the participants it is useful to remember that there are differences in the education systems of the different countries. Briefly, the British L.L.B. degree is an undergraduate degree that can be pursued immediately after secondary school or "A" levels. Although the Canadian L.L.B is also technically an undergraduate degree, students require a minimum of two years of university education to apply to law school and the strongest applicants generally have already obtained an undergraduate degree. The American law degree is called the Juris Doctor (J.D.) and requires a prerequisite undergraduate degree. Consequently American trained candidates have an undergraduate degrees as well as their law degrees. Typically Canadians also have undergraduate degrees as well as a law degree. However, British trained candidates do not necessarily have an undergraduate degree other than their law degree. However, the British and South Asian candidates in this study indicated that in both Britain and South Asian countries the L.L.B. is often followed by an L.L.M. as a finishing degree. Therefore each country varies in the undergraduate requirements and graduate studies for their law degrees. This must be considered when analyzing data on the participants' education background.

The data in Table 2 shows that the South Asian trained candidates possessed the greatest amount of foreign professional legal experience of all the participants in the study. Each of the South Asian trained lawyers had worked in a professional legal environment. Two of the three South Asian candidates had foreign law licenses and had practised as lawyers. One of the South Asian lawyers was the only candidate in the study to have Canadian legal experience in addition to foreign legal experience. Furthermore the South Asian participants as a group had the greatest number of university degrees in the sample.
The data showed that each of the South Asian candidates had an undergraduate university degrees and an L.L.B. Two of the South Asian trained candidates had additional graduate Masters degrees.

Table 3 shows the specific N.C.A. retraining requirements for each participant in this study. It indicates that the N.C.A. assessment of the South Asian credentials, as a group, was the most varied of the study. Despite their legal experience and education two of the South Asian candidates were given the greatest number of retraining hours in the study. They received 45 credit hours of retraining (or one and a half years) as compared to the typical 30 credit hours (or one year) of retraining received by the British and American trained candidates who had fewer degrees and less legal experience. One of the South Asian lawyers was the only participant in the study to have a foreign law license combined with foreign and Canadian law related experience. Yet this candidate received one of the highest number of retraining hours from the N.C.A. However, another South Asian candidate with nine years of foreign experience as a Barrister received the lowest number of retraining hours and was given the option to simply write five challenge exams independently or at the law school. Additionally this candidate was given credit by the Law Society for extensive foreign experience by an abridgement of articles. The specific required courses given to the South Asian candidates in this study also varied although each was given five required courses in total. Finally, as a group, the South Asian candidates had the least amount of external support of all the participants in this study. The data shows they relied on themselves or their spouses as their sole support throughout the process as reflected in Table 1. Not one of this group received an Ontario Student Loan (OSAP), nor did anyone of this group live with or receive support from parents.

The candidates trained in the United Kingdom included two British citizens and one Canadian citizen. After the South Asian group of candidates the two British citizens
with British law degrees had the most foreign law experience however, unlike the South Asian experience it was acquired while they were students and it was not in a professional legal capacity. As a group the British trained participants had the fewest number of degrees as compared to the South Asian and American trained lawyers. Their education backgrounds varied. One of the British trained lawyers simply had an L.L.B. Another had obtained both the L.L.B. and a Masters of Laws. The Canadian citizen who had a British L.L.B. also had a Canadian undergraduate degree.

The N.C.A. assessment of each of the British trained lawyers was identical even though each of the British trained candidates had different education and experience. This is reflected in Table 3. Each British trained candidate received 30 credit hours (or one year) of retraining and each was given the same required courses to be included in their program. As a group the British trained lawyers received fewer retraining hours than the South Asian candidates by half of a year even though the South Asian candidates had a greater aggregate number of degrees and more legal experience. The support available to the British trained candidates in the study varied between each of these candidates. The Canadian citizen with British training had both parental support and received an Ontario Student Loan (OSAP). The other two British trained candidates were married to Canadian citizens. While they did not receive an Ontario Student Loan they enjoyed the support of their spouse and their spouse's family. As a group the level of support for these candidates was higher than for the South Asian candidates and the support system in place was more extensive for them due to the family connections in Canada.

The American trained lawyers in the study each had law degrees referred to as doctorates making comparisons in education again difficult. Each of these candidates had an undergraduate degree but, unlike the South Asian and British candidates, not one of these candidates had a graduate degree beyond their law degree. However, one of the
American trained lawyers possessed approximately a year of professional legal experience as an attorney in the United States having a foreign law license. This candidate was the only other candidate in the study apart from the two South Asian candidates who had obtained a foreign license and professional experience.

The N.C.A. assessment of the American trained lawyers as represented in Table 3 was very similar to the British trained lawyers as described above. Each of the American trained lawyers received in total 30 credit hours (or one year) of retraining. The American candidate with the law license received the option of writing eight challenge exams in lieu of returning to law school. All of the American trained lawyers received five identical required courses as part of their program. The American candidate who possessed the law license receiving an additional three required courses in a program of the same length. The level of support for this group was the highest among the participants in the study. Each of the American trained lawyers received an Ontario Student loan and each had family support. Two of the American trained lawyers were Canadian citizens who had extensive networks of family and friends in Toronto. The other American trained lawyer was married to a Canadian citizen and benefited from the support of his spouse's friends and family.

The data on the three Canadians citizens in the program has been presented above. It is useful to consider the profile of the Canadians in the program in contrast to the immigrant profile. The Canadian participants in this study had American training and British training. All of the Canadian participants had obtained an undergraduate degree in Canada and a foreign law degree. In their educational background they were neither the most experienced nor the least. Not one of the Canadian candidates had a graduate law degree beyond the law degree. The Canadians did not have any professional experience as lawyers. At the time that they were assessed by the N.C.A. not one of the Canadian
candidates had a foreign law license, although one candidate subsequently went on to obtain one. Tables 1, 2 and 3 show that the Canadians did not have the most education of the sample and the data suggests that they had the least amount of legal experience of the sample. Nevertheless the Canadians were part of the group of American and British trained candidates in the study that received the fewest number of retraining hours. Moreover as a group the Canadians enjoyed the most professional and community guidance and support from both friends and family in the legal business. Each of the Canadians received an Ontario Student Loan and each was living with family. In these characteristics the profile of the Canadian candidates in the study contrasts the profile of the immigrant candidates in general, and the South Asian trained candidates in particular. The South Asian trained participants had more legal and educational experience than any of the other candidates in the study and yet they were given the most retraining by the N.C.A. and the least support by the community. It is useful to consider this when reviewing the experiences of all the candidates in the accreditation program.

4.22 Individual Profiles

Abby

Abby was born and raised in South Asia and she obtained all of her education in her homeland. Although Abby does not have a legal license she has foreign work experience in a legal corporate environment. Abby decided to emigrate to Canada with her husband who is a Chartered Accountant. She came into Canada as her husband's sponsored spouse. Abby's husband obtained a job shortly after their arrival in Canada. Her husband is her only family in Canada and her sole means of support as Abby is a full time student and does not presently work. Abby began gathering information on the legal accreditation process in Ontario before she came to Canada. Knowing that she wanted to
practise as a lawyer in Canada she sought information before her immigration and she began the application process abroad. A year before Abby arrived in Canada she applied to the Joint Committee on Accreditation, (now renamed the N.C.A.), and she researched the law schools and found out the application procedures she had to follow for accreditation. The N.C.A. responded to her application and evaluated her credentials on the basis of the length of her legal training, when and where she had obtained her legal training, her academic rank and standing, post qualification legal experience, and the applicability of her professional background to the legal system in Canada.

After receiving a letter from the N.C.A. stating she required 45 credit hours of retraining (or one and a half years) to become accredited Abby set about obtaining admission to a law school which she understood she would have to "sort out on my own". She applied to five of the six law schools in Ontario. She was told at some of the law schools that they would not consider admitting an N.C.A. candidate who had more than 30 credit hours (one year of retraining) to complete. This effectively narrowed her overall chances of obtaining admission to a law school in Ontario. Abby applied to the law schools in February, well before the May application deadline dates for N.C.A. admissions. She received a response in July that she had gained admission to three of the five schools to which she had applied. Her preference was to stay in Metropolitan Toronto. The following September she began her course work. At the time Abby was interviewed she did not have experience with the Bar Admission Course and articling program. She was still in her first of two years of retraining. She expected to be introduced to the articling program and requirements for the B.A.C. at the end of her second year of retraining. Her exposure to the legal job market consisted of her efforts to obtain summer employment at a law firm.
Betty was born and raised in South Asia. She received her education and legal training in her homeland. She is licensed as a Barrister and she has extensive foreign legal experience. Betty decided to come to Canada for the sake of her children's future. In so doing she left behind a successful and distinguished law career. Although she is clear that she does not consider her homeland any less than Canada Betty felt she could give her children a better life and more opportunity in Canada. She adds, "...so I thought perhaps it would be a good idea to emigrate. I thought perhaps my qualifications and whatever I had achieved in my professional career I would be able to contribute to this country also."

When Betty arrived in Canada she brought with her substantial savings. However, she had exhausted her savings in the process of becoming accredited. She states she was not entitled to the Ontario Student Loan Program (O.S.A.P.), and she was unable to work because she was retraining full time. Betty had no visible means of support and she was struggling on her own to complete her training as quickly as possible and to care for her children. The drastic change in her circumstances since she came to Canada had clearly taken an emotional toll on Betty.

Betty began the accreditation application process in her homeland gathering information on the application procedure and accumulating the necessary documents and references required. She was able to get recommendations from senior colleagues at the Bar and judges to support her N.C.A. application. She came to Canada in September and her application was reviewed by the N.C.A. the following October. Betty was in the middle of the law school portion of her retraining when she was interviewed for this study. She did not have an articling job arranged for the next part of the licensing process, Phase Two of the Bar Admission Courses (B.A.C.). However, Betty had been in contact with the Law Society regarding the B.A.C. and she had received an abridgement of the regular
12 month articling requirement for the B.A.C. from the Law Society down to four months because of her legal experience. Furthermore, the regular order of the three phases of the B.A.C. had been juggled for her and the first phase, which consists primarily of practical office skills such as drafting and interviewing, had been waived altogether for Betty in recognition of her legal practice experience. Instead of completing her articles first and then writing the Bar Admission exams Betty would write the exams first and then article for four months. In follow up communication with Betty four months after her initial interview she indicated she had registered for the "Matching Program" for an articling position for the following year after she completed her Bar Admission exams.

Charles

Charles is originally from South Asia; however he received his Bachelor of Commerce degree in Toronto after which he returned to his homeland where he received his common law L.L.B. He obtained a foreign law license and possesses foreign legal experience. Charles decided to emigrate to Canada in 1990. He intended to become accredited as lawyer in Canada. He is single and does not have any children. Charles indicated in his interview that he was paying for the cost of his legal education himself. When he first arrived in Canada Charles took a job shelving books at a library. He used his savings from this work to apply to the Joint Committee on Accreditation (the N.C.A. as it was then) submitting his credentials for evaluation. Charles originally applied to all the law schools in Canada and received admission to two Ontario schools outside of Toronto. When he discovered that he did not qualify for the Ontario Student Assistance Program (O.S.A.P.) because he had not been resident in Ontario for 12 months prior to his application Charles decided he could not afford to attend law school. Instead Charles decided to work and to save the money to finance his education by himself. This delayed his retraining process.
Charles managed to get a job in the legal field as a tribunal adjudicator. He had to reapply to the N.C.A. because the deadline for completion of the requirements imposed by the N.C.A. had expired. In his second round of law school applications Charles focused on one law school that would accommodate his full time job schedule and that would be close to his work. Although this school had rejected him previously Charles was successful in gaining part time admission on his second application. The part time status allowed him the flexibility he needed to continue working to finance his retraining. His employer also permitted him to attend law classes during the day and to make up the work hours in the evenings and on the weekends. This unusual arrangement was very taxing on Charles who had to balance working and studying but, ultimately, it made his retraining possible. At the time of his interview for this study Charles was at the start of his retraining. Charles had not begun the B.A.C. process or articling application process at the time he was interviewed. He intended to inquire at the Law Society about abridgement of his articles in recognition of his legal professional experience.

Dennis

Dennis is originally from the West Indies but he has lived in the United States most of his life and he is an American citizen. His secondary and post secondary education was obtained in the United States, as was his legal training. He is a licensed attorney who has practised in the United States for approximately one year. Dennis emigrated to Canada after his marriage to a Canadian woman whose family was settled in Ontario. Dennis came to Canada as a sponsored spouse and he joined his wife's large family in Metropolitan Toronto. He comments that, initially, when he came to Canada he felt he could not legally work because he was waiting on his landed immigrant status which took several months to arrive. He delayed the application process for accreditation until he was sure of his landed immigrant status. Throughout these months when he could not work or pursue
accreditation he relied on the support of his wife and her family. The couple does not have children to support. Dennis states he had accumulated a substantial amount of debt from student loans to finance his education in the United States. As a result, he comments that he did not bring significant savings with him into Canada. At the time of the interview for this study Dennis had found some part time jobs but he still described his wife as his main support. He also received an Ontario Student Loan (O.S.A.P.).

Dennis began the accreditation process after he got landed immigrant status in the middle of 1995. He states he spent almost two years prior to that waiting and accumulating information on the process. He began his search with the Law Society obtaining information on the N.C.A. program. In early 1996 Dennis sent in his credentials to the N.C.A. for evaluation. Dennis applied to the two law schools in Toronto. He states he was accepted into both Toronto law schools but ultimately chose the school he could best afford and which had received him most positively. At the time he was interviewed Dennis was half way through the retraining process. He did not have an articling job for the second phase of the B.A.C. because he had missed the deadlines to participate in the articling "Matching Program" during the previous summer when he had applied to the law schools. He was resigned to the fact that he would have to obtain an articling job on his own and he had begun the process of sending out resumes to firms without much success.

Ellen

Ellen emigrated from the United Kingdom to Canada. Ellen received her L.L.B. in the United Kingdom and she went on to complete her Bar Finals for Solicitors which she describes as the equivalent to the B.A.C. She was six months into an 18 month period of articles when she came to Canada to join her husband who is a Canadian citizen. The couple does not have children to support. When she arrived in Canada she found work as
a receptionist. She began the process to obtain landed immigrant status when she moved to Canada and it took eight months to complete. Prior to coming to Canada Ellen started acquiring information on the accreditation process. Her future husband sent her information he had obtained from the Law Society on the N.C.A. program. She states she waited for her landed immigrant status before she applied to the N.C.A. and the law schools to avoid the higher tuition fees charged to foreign students at the universities. This caused a delay of almost a year in her accreditation process.

In the spring of 1996 Ellen sent in her credentials for evaluation to the N.C.A. and at the same time she applied to the law schools. Ellen remembers that she had to send in her law school application without knowing the results of her evaluation from the N.C.A. Ellen applied to only one law school in Ontario based on its location. She wanted to live in her new home and she did not want to travel a long distance to school. She adds that she believed the law school to which she applied to have had the best reputation. She explains of her decision to apply only to one school and take her chances at not gaining admission, "...my heart was not in it". She states she didn't want her credentials to go to waste but she "wasn't really scraping trying to make sure I got in". In July Ellen heard from the law school to which she had applied that she had been accepted. Unfortunately, her response from the law school came on the same day as the deadline for entry into the articling "Matching Program". Ellen did not know about the deadline. Consequently, she missed it. She did not have an articling position for Phase Two of the B.A.C. at the time she was interviewed for this study. Nevertheless, Ellen was very positive about her job prospects and she had lined up interviews with law firms for articling positions on her own. Four months after her interview in follow up conversations Ellen had obtained an articling position in the legal department of a bank.
Frank

Frank was born and raised in the United Kingdom and he received all of his education in England. Although he does not have a legal license Frank has experience as a student in the legal field before tribunals. Frank's work as a child social worker led him back to university with the intention of becoming a child psychologist. However in his second year of university he came to Canada with his future wife to meet her family and friends and was introduced to a number of Canadian lawyers changing the direction of his career. During his visit to Canada Frank obtained general information from individuals in the law profession on the accreditation process in place. He obtained further information on the accreditation process by contacting the N.C.A. and the Law Society in his second year of university. Frank came to Canada with his wife as her sponsored spouse. He began the process to obtain landed immigrant status in the United Kingdom but he states that it took longer than necessary as a result. The couple do not have any children to support. Frank does not work and the couple lives with his wife's family. Neither Frank nor his wife were eligible for the Ontario Student Loan Program because neither had lived in Ontario for the 12 month period prior to their application. He credits his wife's family for their support throughout the accreditation process. He also received loans from his own family and he borrowed from the bank to survive. He describes living on an extremely limited sum of money for the past year and he states quite frankly that, as a couple, they could not have afforded the move to Canada without the support from both families.

Frank began the accreditation process at the same time he began his L.L.M. in September 1995. Within the year he had been assessed by the N.C.A., accepted into a law school, had participated in the "Matching Program", flown out to Canada to be interviewed for an articling position and he had landed a job with a large Toronto firm. He did all of this while completing his L.L.M. By September 1996 he had started his
retraining in Canada. Following his response from the N.C.A. Frank set about applying to the law schools to meet the May application deadline for N.C.A. admissions. In July he received notice that he had been admitted to one of the law schools in Toronto. He had corresponded and communicated from abroad throughout the application process. At the time of his interview Frank had an articling position for Phase Two of the B.A.C. as a result of his successful participation in the "Matching Program".

Greg

Greg is a Canadian citizen who received his undergraduate degree in Toronto and his law degree in the United States. He does not have a legal license or legal professional experience. Greg is single and he does not have children to support. He went to the United States to obtain his law degree because his family intended to move there. However, the family's plans changed after Greg started law school so he decided to return to Canada to practise law after completing his degree. He did not pursue licensing at the State Bar after law school because he intended to return to Canada. Greg lives with, and is largely supported by, his family in Toronto. However, he did receive an Ontario Student Loan (O.S.A.P.).

Greg knew about the accreditation process before he went to the United States from friends in the business. He began the application process to the N.C.A. in his second year of law school in the United States having obtained information from the Law Society about the N.C.A. program. He initially submitted his credentials to the N.C.A. for review in January, well before the May application deadline for N.C.A. admissions at the law schools. His credentials were not reviewed because his cheque was not certified. He had to resubmit his application for the Committee's consideration in June. This caused him some concern because he was applying to the law schools in May and needed the N.C.A.
recommendation to complete his law school application. He notified the law schools of the delay in his N.C.A. assessment and forwarded it to the law schools when it came through. Greg has an articling position for Phase Two of the B.A.C. He was notified of his acceptance into law school on the last day for entry into the articling "Matching Program". Although he was able to get into the "Matching Program" he describes his initial difficulty getting interviews for an articling position because of the delay in submitting his resume to firms. However, he was able to call upon family friends with contacts in the business which eventually resulted in several interviews with law firms. Greg ultimately obtained an articling position at one of the largest firms in Toronto.

Howard

Howard is a Canadian citizen who received his undergraduate degree at an Ontario university and his law degree (L.L.B.) in the United Kingdom. He is not licensed abroad as a lawyer. He does not have any professional legal working experience. He originally applied to law schools across Ontario and law schools in the United Kingdom. He received an offer of admission from a law school in the United Kingdom but he did not get into any Ontario law schools. Howard decided to go to the United Kingdom knowing there was a strong possibility that he would return to Canada to practise law. He determined before he left for England that there was a process whereby he could return and be given credit for his foreign law credentials. Once in the United Kingdom he contemplated staying there but he was not permitted to enter the licensing school for Barristers because of citizenship requirements. This would have effectively prevented him from practising law in the United Kingdom and so he returned to Canada. Howard is single and he has no children. He lives with his parents in Metropolitan Toronto who contribute to his support and he received an Ontario Student Loan (O.S.A.P.).
Howard began the accreditation process a year in advance of his returning from England. He describes his initial efforts to become accredited in Canada as a "backup plan" until he discovered he could not practise in the United Kingdom. Howard applied to three Ontario law schools for the May application deadline for N.C.A. admissions. Initially, Howard did not receive admission to any law school. This troubled him because he felt his marks were good. He made inquiries as to the reason for his rejection. He states he was instructed to write to the law school and ask for a reconsideration of his application sending evidence of his class ranking. He states that within hours of delivering his letter he received a telephone call telling him he had been accepted to the law school.

Howard did not have an articling position for Phase Two of the B.A.C. at the time he was interviewed for this study. He attributes this to the confusion over his assessment at the N.C.A and his late law school admission which prevented him from participating in the "Matching Program". He is interviewing on his own to find an articling job.

*Irene*

Irene is a Canadian citizen who obtained her undergraduate degree in Toronto and her law degree in the United States. She returned to Canada upon completion of her American law degree and she has no legal work experience. Irene followed her fiancé to the United States where they intended to settle and where she intended to practise law. She did not apply to any Canadian law schools before going to the United States to study. Irene returned to Canada after the couple changed their minds about living and working in the United States. Irene's family lives in Ontario. She describes her family as providing support during the accreditation process, and she also received an Ontario Student Loan (O.S.A.P.).
Irene states that she knew there was an accreditation process in Ontario very early in her legal training and she discovered more information about the process in her second year of law school when she started planning to return to Canada. She contacted the Law Society and received the N.C.A. package from the Law Society and began the process. After reviewing her application the N.C.A. recommended Irene be given the option of additional retraining or successfully completing eight challenge exams in eight subject areas, but she could only exercise the challenge exam option if she successfully passed a State Bar Exam. Although she subsequently did pass the New York State Bar exam she did not exercise this option but chose instead to attend law school for the course work. Irene applied to the two law schools in Toronto. She received admission to both schools in Toronto and she chose the school that accepted her first. She experienced little or no difficulty throughout the process of accreditation. She was familiar with the process and she knew what to expect from many friends and contacts in the industry. Irene was in the second term of her retraining when she was interviewed for this study. She had an articling position lined up for the Phase Two of the B.A.C. as a result of participating in the "Matching Program".

4.3 The Participants' Experiences

The purpose of this study was to document the experience of the legal accreditation program for a group of candidates retraining in law schools in Toronto and to identify factors that affected their experience of integration into the Canadian culture of law. The study revealed that for this particular group of candidates in the legal accreditation program the factors that affected their experience of integration were associated with their experiences with the administration and the implementation of the N.C.A. accreditation program. In the initial stages of the accreditation process the participants came into contact with the N.C.A. and the Law Society as they sought out information on the application procedure. Further along the process the participants
encountered the law schools as they applied for admission to take the retraining required by the N.C.A. Some of the candidates had exposure to the legal industry through articling interviews which occurred during the accreditation process. The N.C.A, the Law Society, the law schools, and the law firms appear in the data as the four main legal bodies that the candidates encounter throughout the accreditation process as they make their way towards licensing in the law profession.

4.31 Evaluation of Credentials

The first part of the process of legal accreditation for the participants involved the evaluation of their credentials by the N.C.A. Although a detailed N.C.A. brochure was provided to the participants describing a case by case, individualized, and systematic approach to the evaluation of their credentials, the participants described a lack of understanding about this stage of the process. They did not contest the need for an accreditation process but rather commented on how the evaluation was done, the consistency between evaluations and the lack of apparent reason for assigning particular course work. Some of the candidates commented on the usefulness of returning to law school. Notwithstanding their concerns about the manner in which the evaluation of credentials was carried out the participants accepted the need for a system of evaluation of foreign credentials to maintain a standard of competency and ethical practise within the legal profession.

The data showed that most of the participants expected the assessment they received of their credentials. The candidates described the evaluation results arriving promptly once their application was processed. The participants describe the brochure as providing a brief synopsis of typical evaluations of degrees from certain countries, a law licence, and legal experience. It also gave the candidates the expected time frames for a response from the Committee. Given that their assessment corresponded to the published
guidelines provided in the N.C.A. package the candidates were satisfied. However, some of the candidates remarked that the assessments between candidates with similar qualifications corresponded too closely for an "individualized", "personalized", "case by case" consideration to have occurred. Instead they suggested it was formulaic and they described the evaluation process as appearing "rote", and "arbitrary", even somewhat predictable. One candidate commented that it was too much of a coincidence that all the candidates with a J.D. from the United States wound up with the same retraining requirements, while all the candidates with an L.L.B. from England were given similar course work. This raised concern among some of the candidates about the authenticity of the evaluation process. Consequently, most of the candidates expressed relief when they finally received their assessment and it was in accordance with the published guidelines.

Although the candidates were not completely surprised at the results of the N.C.A. evaluation of their credentials they explained that they were not clear how the actual evaluation was done, how the retraining requirements were arrived at, and why certain courses were required. The evaluation process was described by Charles as a "black box" for lack of transparency because "you never know what process they go through and how they evaluate it." Charles explained,

...I don't know, the fact is it's a black box. You send in all this stuff and you get a written letter explaining what they decided. I've since had to write to them again and I said would they alleviate the hardship in the sense that they were asking me to do courses which I didn't think were particularly helpful,..

The necessity and fairness of having to attend further law school courses were raised by a number of the candidates. Ellen states of her evaluation, ".it was what I was expecting" but at the same time says "it was completely unfair" to have to retrain at law school given
her qualifications. With some resignation characteristic of all the candidates she adds, "So that's what I thought, I thought I'll never have to do school. So in those terms, no, I didn't think it was fair. But once I was in the system they went by their code anyway".

Many of the participants held the impression that the evaluation of credentials was not seriously undertaken by the N.C.A. and they raised questions about the membership of the N.C.A. and the nature of their evaluation meetings. More than one participant described requesting changes to their required courses work at the law school which had to be approved by the N.C.A. After making inquiries to the N.C.A. they received permission to change their courses. This permission came within hours of their initial request. One participant described being able to switch a course as "one of the easiest thing that happened" in the accreditation process. He describes the procedure he went through in the following manner,

"basically I just called the N.C.A. and I talked to [an administrator] and she said in order for us to switch you we have to get approval from [another administrator], but he's all tied up, so we'll forward him the message and we'll call you back. I only had the next day before the deadline for switching happened at Y [law school], so I asked, was he in the office? so it is kind of urgent. They called me back, within an hour. [The first administrator, not the second ]. Apparently she didn't say whether he had looked at it or not, she did pull my file and she said," It's OK to switch, go ahead."

Another participant recounted a similar response from the N.C.A. when he sought a review of the number of hours of retraining he was given. The initial assessment from the N.C.A. departed from what the candidate had expected based on the guidelines and his conversations with the N.C.A. so he took up the discrepancy with the N.C.A. and asked
for a review of his evaluation. He states that he did not feel that his application had been read "seriously" and that his "excellent references" were overlooked. In his review he highlighted information he had already provided to the N.C.A. to draw it to their attention. He was successful in his review and the N.C.A. reduced the number of hours of his retraining from 45 credit hours to 30 credit hours, the difference of approximately a half of a year worth of retraining. He comments he was taken by surprise by the rapid response from the Committee which was faxed back to him almost immediately because he thought that the whole N.C.A. Committee would have to reconvene to consider his request for a review.

The willingness to accommodate the candidates could reflect the N.C.A.'s flexibility. The swiftness of their response might even suggest a high level of efficiency in the N.C.A. operation. However, for the candidates it raised questions about who was actually making the assessment decisions and it suggested the arbitrariness of the original evaluation decisions requiring a certain number of hours and particular course work. One participant commented, "The responses seemed kind of arbitrary, in that all the courses I've been asked to take, I've taken them already, and people who have never taken courses in a particular subject don't have to take it here..." Furthermore, the candidates remarked that the N.C.A., composed of individuals from across Canada, was supposed to meet four times a year to make these evaluation decisions. However, the candidates expressed disbelief that the Committee members hurriedly convened in the couple of hours it took to receive a response to their request for a change of course work, or that the Committee even communicated in any way to authorize these changes to their retraining. For this reason one of the participants described a form letter, that was sent to him and signed on behalf of the Committee authorizing the course changes, as "disingenuous". Instead they commented that they were left with the impression that there were two main people "running the show".
The study revealed that the participants held the perception that degrees from the United States and the United Kingdom were favoured in the accreditation process over degrees from other parts of the world because candidates with these degrees were given fewer retraining requirements by the N.C.A. The Canadian participants interviewed in the study went further and suggested that, in the hierarchy of degrees, American degrees were favoured over degrees from the United Kingdom. The participants with degrees from the United Kingdom took exception to the lower value placed on their credentials. Howard describes his reaction to his rejection at the law schools having obtained a British L.L.B. by stating, "So I was pissed off, like I didn't understand what the hell was going on, why I wasn't being accepted. Because my marks in England were good. I think it's a general lack of respect for people who go to England." Ellen responded to her evaluation in this manner,

...well I thought, before I had even heard of the N.C.A. I thought I've got a degree in England, a common law jurisdiction, and England, Mother of all these things, I wouldn't have to do anything, maybe come here and just article on the job, I won't have to go to school...Every single person I talk to says, 'But you are from England, you don't have to do anything do you?' Every single person, apart from the jaded ones that say 'Oh yeah, this is Canada, they make you do everything again'. But every single person says, 'England, isn't that where all the law comes from anyway?'

Throughout the study the participants with degrees from the United States and the United Kingdom spoke about their credentials with an implied superiority as compared to degrees from other parts of the world. Furthermore, the data revealed the candidates with British degrees originally expected to be given more credit for their degrees than they were given by the N.C.A. The candidates with American degrees were confident that their
degrees held the most value in the process because of the similarity of the legal and education systems in the two neighbouring countries. By contrast the candidates from South Asia made no comment on the value of their own degrees but openly acknowledged that individuals with American and British degree were given fewer retraining requirements in the legal accreditation than individuals with degrees from other parts of the world.

The study showed that all the participants perceived their credentials and experience as being valuable and transferable. Frank commented that he "definitely" had transferable skills and comments, "I've basically got as much chance as any other student here of being a competent lawyer. I don't think the fact that I am educated in the UK as opposed to here makes a big difference." Charles described the judgement, maturity and experience of the N.C.A. candidates as assets. Betty commented that the N.C.A. candidates bring interpretative skills, basic legal principles and core legal knowledge with them into the program. Ellen suggested that the N.C.A. candidates added "diversity" to the profession. Abby saw the N.C.A. student not as different but perhaps even better than the regular Canadian L.L.B. student. She observed that the ability to adjust and adapt to a different culture and experience and a new place is a "plus", and she commented,

...also the fact that they should think that the National Committee student is not really different to the regular student, in fact I think they should make it a plus, because they already have a degree plus also they are requalifying, you know, doing something additional. So rather than a disadvantage, I feel it should be a real plus for them.

However, the data revealed that the candidates described being different as a "disadvantage", and they felt "penalized" for their prior legal training and their exposure to
different jurisdictions. This was attributed to an evaluation process that did not identify these transferable skills and a retraining process that did not allow the candidates to make use of their transferable skills. It was also suggested by one candidate that the legal profession values "conformity" and not diversity. Furthermore, the data showed that the participants also perceived Canadian credentials and experience as desirable but treated inconsistently in the process. One participant described the experience of making a second application to the N.C.A. having obtained additional Canadian law related experience in the interim. The second N.C.A. recommendation for retraining came back the same as the first, and, for all of his troubles, the participant had to pay additional fees for the second identical assessment. The Canadian experience made no difference to his N.C.A. assessment.

4.32 Co-ordination between Administrative Bodies

The study revealed that the lack of co-ordination between the bodies administering the accreditation program presented an additional difficulty for the participants. The first indication of the lack of co-ordination came at the beginning of the accreditation process in the inconsistent evaluation of the candidates' credentials and experience. Charles described each body as assigning different value to his Canadian and foreign credentials and experiences. The credentials not credited by the N.C.A. for the purpose of retraining were subsequently considered and credited by the law school for admission purposes, and by the Law Society of Upper Canada in determining abridgement of articles. Similarly Howard maintained that while the N.C.A. reduced the number of retraining hours when they reviewed his credentials, this made no difference to his acceptance at the law school. Frank credited his extensive foreign work experience representing cases as a student before tribunals, and not his advanced L.L.M. degree or his grades, as the factor that made the difference in getting him an articling job at a law firm. But he said it made no difference to his N.C.A. evaluation. Betty described the Law Society crediting her foreign
work experience by abridging her articles from 12 months down to four months. However, Ellen explained while the Law Society may give you credit for your experience by abridging your articles, if you take advantage of the abridgement it could cost you an articling job with the law firms who want a commitment for a full year. When asked if she would seek an abridgement of her articles because of her experience she expressed this concern,

I don't think for my sake it was worth it. And also the main thing why I didn't do it was that most firms, when they take on an articling student they expect to take you on for a year anyway. So if you come and say well I'm only here for 6 months or 9 months, well they will say I don't want you then. So I don't want them to differentiate against me on that basis, they might count against me, so I said, let me just go in with the crowd, in the usual way. A year is a year, in the long run it won't make a difference, to me, so I didn't bother.

The data shows that the admissions policies and the responses of the administration of the different bodies involved in the accreditation and licensing process affected the candidates' experience of integration. First, the accreditation process was two-tiered and it involved providing documents to both the N.C.A. and the law school for separate, distinct and often inconsistent consideration. Data collected from the N.C.A., the law schools and the Law Society on the program reveal that each stage evaluates candidates' credentials upon different criteria. The N.C.A. evaluates for equivalency on the basis of the comparison of credentials to Canadian training. The law schools evaluate for admission to their program on the basis the candidate's likelihood of success in the program. The Law Society evaluates for the purposes of certification and licensing on the basis of standard of competency. Acceptance into the accreditation program did not translate into admission to the law school to take the required courses. To co-ordinate the
different application processes involved the participants had to plan well in advance. Time was needed to obtain the necessary documentation required by the different bodies and to set up living arrangements upon arriving in Canada.

Despite this, the participants describe being met with very late responses by the law school, usually in July but often as late as the August, before the starting date of September. More than one candidate described being left on a waiting list and of not being notified of their status at one law school until they called and were told they had not gained admission. Some of the candidates held the perception that consideration of their applications to the law school occurred only after the regular admission of L.L.B. students. They expressed concern about getting into courses because they were "at the back of the line". The participants' descriptions of the limited spaces available in the law schools and the "stiff competition" was corroborated by law school admission documents examined. However their fears about courses proved unfounded as places were reserved for them in the courses required by the N.C.A. Only their elective choice was limited based on the numbers in the courses.

The lack of spaces in the law schools for N.C.A. candidates reduced the availability of retraining opportunities and put tremendous pressure on the candidates to take the first offer of admission regardless of the cost. It was clear from the participants' experiences with the law school admissions and from the published application guidelines for the N.C.A. and law schools that there were many more N.C.A. candidates seeking retraining than there were spaces available in the law schools. Moreover, the N.C.A. candidates were not competing for general admissions spaces but for the much smaller number of spaces allocated for the N.C.A. students. This varied each year but usually ranged between 10 to 15 spots at each of the two Toronto law schools depending on the number of retraining hours and the full time or part time status of the student.
The participants of this study did not feel that the N.C.A. and the law school were working together to place the candidates. In fact, the separation between the N.C.A. and the law schools was made clear. Admission to the law school and completing the requirements of the N.C.A. was the candidates' sole responsibility. The data showed that the candidates were most concerned about getting a place in the law school to fulfil the N.C.A. requirements. This concern was exacerbated by the fact that the N.C.A. recommendation had a time limit to it and it had to be completed within a certain number of years or it expired. The Canadian participants in this study were aware of the demand for the limited spaces in the law school and they were prepared for the aggressive competition that faced them both in gaining admission and among the students once in the law school. The immigrant participants in this study were less prepared for the competition at this various stages in the process of accreditation and licensing.

The data suggests that the candidates' attitude toward their accreditation was affected by the different policies towards their grades taken by the law school and the N.C.A. The participants explained that the N.C.A. had a "pass / fail" policy for the candidates whereas at the law schools the candidates had to meet the law schools grading standards in order to pass and stay in the program. Regardless of the candidates' grade at law school they would only receive a pass or fail from the N.C.A. The data showed that this inconsistency negatively affected the candidates' motivation and morale in the program and undermined their performance at the law school because "it didn't matter" how they did as long as they passed. An "A" for an N.C.A. candidate in a law course was transformed by the N.C.A. into a "pass" but an "A" for a regular L.L.B. student would show up on their transcripts as an "A". The participants described the grading policy as effectively forcing them out of the competition with the regular L.L.B. students against whom they were competing for coveted articling jobs.
The lack of co-ordination between the N.C.A., the law schools and the Law Society affected the dissemination of information to the candidates in the study. The data revealed there was communication between the N.C.A. and the law school regarding the candidates especially for admissions purposes. In more than one case the law schools were able to provide the candidates with information about the status of their N.C.A. evaluation, or their place on the waiting list at another institution, before the candidates themselves had been officially notified. However, this information typically flowed between the bodies and not down to the candidates. By contrast the study showed that there was a lack of communication of pertinent information to the candidates regarding the process of becoming accredited and licensed. The individual bodies, namely the N.C.A., the law schools and the Law Society, were either unwilling or unable to provide information about the process which involved the other bodies. At times the participants felt that one body didn't know what the other was doing. At other times they felt they were being given the "run around".

The majority of the candidates interviewed for this study were caught by the overlapping deadlines of the different bodies in the process. This directly affected their entry into the articling "Matching Program". More than one candidate complained that not one of the institutions alerted them to the fact that there was a procedure to follow with strict deadlines for the different bodies. Dennis captures the frustration of trying to elicit information on the process when he says,

So when it came time .. in the mean time, though I was calling the Law Society to find out, "Is there anything I need to do?". The Law Society would say go to the N.C.A. people. The N.C.A., when I would call the N.C.A. they said you only have to send the application, only when we have
the application and review it can we say anything about it. So it was like, no help from either place.

The data showed a loose and, at times, an ill-defined connection existed between these three bodies in terms of the administration of the N.C.A. program. Many of the candidates were under the impression that the N.C.A. is part of the Law Society. This is fuelled by the literature that is given to the candidates on the N.C.A. program which bears the Law Society stamp. Ellen captures the confusion as she tries to explain her own understanding of the relationship,

..I don't know if that is a mistaken belief there but yeah it's certainly with their approval, or some kind of affiliation, I don't think it's separate entirely. Because I remember, the reason why is because I used to get these big envelopes with the Law Society of Upper Canada and it was the National Committee. So I thought it was all part and parcel..but no, no deadlines, mentioning articling and I knew I had to do it, but no deadlines.

After going through the process Dennis remarked of his understanding of the relationship between the N.C.A. and the law school,

Pretty much none existed. The only relationship is that the law school knows I'm going through this program. They have, they will accommodate students like me for the program, and all they will do, or are required to do, is they will just forward my grades to the N.C.A.

Frank commented that he expected there to be a degree of co-operation between these bodies "dishing out these requirements to hundreds of students who will in turn be
applying to the law schools" but he states the responsibility is clearly up to the candidates to get through the program on their own. He described the extent of the N.C.A. involvement with his retraining as, "They have had their say and now they just want to know if I've done the lot. So then they can give me a bit of paper saying that I've done it." Flowing from this gap between the N.C.A. and the law schools is the impression that the candidates are unsupervised, unmonitored and liable to fail between the cracks. Howard comments that "No one is going to call us up, no one is going to check up on us to make sure the system moves along".

The data suggested that the lack of a central body responsible for the implementation of the program, overseeing the entire process from evaluation of credentials to retraining and licensing directly affected on the candidates' integration. Betty describes being "shuttled" between the N.C.A. and the law schools, and wishing the Law Society "would take this evaluation under their wing". Charles comments,

It's just a disorganized experience...I think at the same time it could be used much better if somebody at the law school had sat down and designed the experience for the J.C.A. [the N.C.A. as it was then called] students as well as they did for the regular degree law students...there is no conscious design to it, it is just haphazard...no, there isn't anyone responsible for us guys in that sense...

4.33 Costs

The fees associated with the accreditation process are described by Charles as "horrendously high" and "hefty", and by Betty as "punitive". The data from both the participants and the records and documents show there are multiple layers to the fees required because of the number of bodies involved in the program. There are costs
associated with every step of the process including fees for applying to the N.C.A. for assessment of credentials, and fees for reviews of those decisions. There are fees for each required equivalency exam, and fees for applying to, and attending courses at, the law school. The Law Society charges fees for consideration of abridgement of articles in recognition of foreign work experience and for attending the Bar Admission Course.

For some of the participants the costs of the program limited their choice of law schools. The difference between the fees at the two Toronto law schools is significant and many of the participants could not afford the higher amount at one of the law schools. Other candidates who were only accepted at the one school with the higher fees had no choice but to pay the fee to get the accreditation training or to decline the admission and delay their accreditation training until they could arrange financing. One participant characterized the reasons for his ultimate choice of law school as "attitude and money". He states that he could barely afford the retraining. One law school was considerably more expensive than the other. The same amount of retraining was twice as expensive and in the end he would receive the same "Certificate of Qualification" from the N.C.A.. To compound matters he says he was confronted with an attitude of superiority to go with the incredibly high fees at the law school for which he says "I didn't quite care for the attitude too much".

All the participants responded to the fees differential between the law schools. At one law school the N.C.A. students had to pay higher fees than regular L.L.B. taking the same course load at that law school, and higher fees than all other N.C.A. students at other law schools in the province. The participants in this study questioned the reason given for the higher fees at X (law school) namely that the government did not subsidize N.C.A. students at this one law school. The participants quickly pointed out that all the other law schools in Ontario received subsidies for N.C.A. students. One participant felt
that the law school was "forced" to have some kind of N.C.A. program and this affected how they treated the N.C.A. students, commenting that the law school "resented" the N.C.A. students.

Similarly the participants wondered about the fees being charged by the N.C.A. for a "paper application". The data suggested that the participants held the view that the fees charged did not relate to the task at hand. The data showed that the participants perceived the fees as a way to control the numbers being admitted into the accreditation process. More than one participant described feeling as if their determination and resolve were being tested. However, they also suggested a powerlessness to do anything about the fees being charged by every body in the process. Ellen sums up her feelings on it when she states,

"I thought it was incredible, incredibly high sum for just a paper application, just to look at it, I mean how much time are they going to spend just to look at it. It's just one of those things, if you have to do it, you have to do it, there's no way around it. You can gripe about it. If that's what they're asking then maybe, you know, they want to use it as a test of your sincerity, or your commitment to the whole thing. They don't want frivolous people saying, "Oh I'll throw it in just for the hell of it." And they don't want to consider hundreds and hundreds, they only want people who are serious, and if they set a high figure, then they will only get people that really want to do it. I guess that's their argument. I can't see any other justification for it.

The data suggested that the participants were sceptical about the extent of the costs associated with the accreditation process and they were aware of their own inability to do
anything about it. Howard characterizes the fees policies as a "money grab" when he comments,

I think there's an element of a money grab here. You have to pay $400 to the N.C.A. program. The cheque is made payable to the Federation of Law Societies of Canada so all the Law Societies are getting money. And then you have to go to law school, so all the law schools are getting money. So I think, I'm a bit suspicious.

4.34 The Support System

The study revealed that the participants expected a certain amount of support from the university during the retraining period. For some of the candidates it was apparent this factored into their decision to attend law school over studying independently for the challenge exams. The participants were drawn to the social environment and the community life at the university and perceived this as a potential benefit to their retraining process. This element was particularly important to the new immigrants who were reconstructing their lives and trying to establish new friends and contacts in Canada. Ellen expresses these sentiments when she describes her attitude toward attending law classes at the university over the challenge exam option. She explains she didn't want to take the challenge exams because,

I would have had to do it all alone, and I wanted the social life. Because I didn't have any friends, and how do you meet people unless you are working or studying or something?...So I wanted the social life, I wanted to be part of something, even if it's an institution, make good friends. Because I knew I would, because I've been through university and I made good friends while I
was there. So I thought it would be a good experience. It would be easier, because it's all set out for you, this way you are all on your own. You don't have any guidance, so who are you going to turn to because you don't know anybody. It just seemed too difficult, too onerous...so I thought I would do it, follow the format, the proper way...to go through the system, and say you've been through the system at least to know what it's like. The experience, it's real life, just looking at books and sitting exams is a bit abstract...I like the interaction of coming here and, it's all set up for you..

The study showed that the candidates had given some consideration to the quality of their learning experience during the retraining required by the N.C.A. Most of the participants' comments were directed at the law school experience. Overall the candidates were very positive about the potential of the law school environment to enhance the learning experience through the instruction, research facilities, support and community life. However, not all the participants found these elements to the retraining once they were at the law school because of the policies and attitudes of the administration. Therefore, while the law school environment offered potential benefits, it did not necessarily actualize those benefits for the N.C.A. students.

To a large extent the corresponding services and support associated with the fees contributed to the participants' sense of integration in the process of legal education and ultimately their integration into the legal community. The level of support also distinguished the two law schools in Toronto. It is not the purpose of this study to compare the law schools; however the experience of the candidates at each school must be clarified to present the data clearly and accurately. In general, the data showed the high cost of retraining without adequate support systems in place posed serious obstacles to all
the candidates who then rapidly drained their savings and resources and overtaxed what personal support they had in place.

The participants from X (law school) point out that their lack of student status at X (law school) represented by the lack of a student card disentitled them to "the rights and privileges associated with that card". One participant noted that simple extracurricular activities like joining the Law Faculty hockey team would have gone a long way to integrating the N.C.A. candidates into the law school community. And yet the N.C.A. students were prohibited from joining such activities because they were N.C.A. students and, as such, they were not considered "law students". The participants from X (law school) explained that library privileges for them were arranged separately so they could use the law library. The N.C.A. students at X (law school) were not given an e-mail account and were not given instruction on how to access the computer search program Quick Law, although one candidate describes arranging instruction on his own. Very little was done for them at orientation. The participants described the extent of the orientation at X (law school) for the N.C.A. students as "registration and pay your fees". They commented that only "as an after thought" they were given an unplanned tour of the law school by a previous student. They were assigned lockers which they had to share because they were N.C.A. students and they were given unbounded syllabi which they believed to be the surplus from the regular L.L.B. orientation.

One candidate comments that he was specifically told he could not participate in the Mooting Competition at X (law school). Another participant describes the response he received when he inquired about using the career services at the law school,

The first question I asked upon my acceptance was, ah the career services office and where was that. And the first thing she said to me was "OK. ,
listen, you're here, we're here to help you as much as we can, but you do not have the same. the fact that you are accepted here is more of a privilege to you than anything else. And the career office is not for you. It's for our students.

He concludes that at X (law school) the N.C.A. students are separate from the regular students in terms of the support available to them from the administration and he states categorically, "They are lesser".

By way of explanation one candidate at X (law school) attributes the conditions of retraining for the N.C.A. candidates at X (law school) to the "mind set, the ethos of the Faculty of Law at X (law school)" commenting that "I think that they have made a conscious decision for whatever reason that we are not going to be of the same class as the regular students. I feel they have made a particular decision to make us different from the regular students." He remarks that it is, in part, a recognition of their maturity and previous legal experience that results in the denial of these essential services and privileges because the N.C.A. student is "deemed to have done these activities in their prior degree and the law school wants to provide as many regular students the opportunity." The data suggested that the participants at the one school were being penalized for their added experience and that they were being denied access to support and services while attending the faculty.

At X (law school) the lack of support was heightened by the lack of student status conferred on the N.C.A. candidates. The participants at this law school identified the lack of financial and social support systems as a factor compounding the administrative policies and adding to the difficulty of their experience of the accreditation process. For example the fees policy for the N.C.A. candidates which required that they pay approximately twice
the fees for the same course load as a regular L.L.B. student was made worse by the lack of financial assistance, ineligibility for university or law school funds, and in some cases ineligibility for Ontario Student Loan Program (O.S.A.P.). The N.C.A. candidates' lack of student status at the university disqualified them from financial assistance available to other students. One candidate pointed out that if you did receive O.S.A.P. you received the same amount of funds as the regular L.L.B. student, but it had to go further because the N.C.A. candidates paid higher fees. In fact the fees for one year of retraining at X (law school) with a full course load were more than the N.C.A. candidates received from O.S.A.P.

Moreover, the social network at the law school and the community life of the university at large, identified as a major contribution to the integration of the students, was largely off limits to the N.C.A. candidates at X (law school) because they were not treated as students in the eyes of the law schools administration. The participants who attended X (law school) had no library privileges elsewhere at the university, and they had no student privileges at the athletic centre, or the various student centres and facilities throughout the campus. Charles comments that, after paying his "horrendously high" fees,

..on top of that I'm reminded..that I am not a full time student, that I'm not really a student at X (university). It's just the fee for the course I'm taking, so I'm not entitled to any incidental privileges, like you know, I can't use the athletic centre and I can not use the facilities because I'm not really a student I'm just taking some courses.

The data suggests the different fees structure and the separate admission privileges at X (law school) affected some of the participants' experience of integration at the law school. Betty explains,
But here, instead of, like they call us special students, right? But I would say "we're special student?", it's a misnomer to say special students. We're *especial* students...Yes and even the N.C.A. students they stick to themselves, they're separate there's no intermingling, at least none that I have seen, with the regular students.

Charles also described the lack of interaction with faculty, the isolation and the lack of opportunity "for there to be the kind of growth that you get from discussion and interaction with other students". He points out that the status of the N.C.A. student at X (law school) is "narrowly defined" explaining, "what they do is give you permission to take courses". He states,

...it means that all I'm doing is paying to take certain number of courses and I take those courses and that's it, that's my relationship with the Faculty of Law. It is the forum or the venue for my taking courses. They have the professors, the law instructors who can teach me and do the courses that the N.C.A. asked me to do, that's it.

The law school's role for Charles is "a place to do courses", and "get information about articling positions". Betty says, "I'm here for, to appear for some exams." Abby contends "I do feel that we are discriminated against in that respect because we aren't a regular student". However, she repeatedly points out that they are no different to a regular student since they are doing exactly what the L.L.B. student does at X (law school) and therefore should not be treated differently.

Charles explains that when he went to law school the first time as an N.C.A. candidate and realized there was no financing or support available to him to become
accredited, he couldn't afford it and had to withdraw. He connects the lack of financial and social support for N.C.A. students to their difficulty in competing with the regular L.L.B. students who will do much better than the N.C.A. candidates struggling to support themselves and who are going through a relearning experience. Furthermore, he observes "So it's pretty much you're tossed into the water and if you don't sink you're a lawyer". Betty similarly describes the process she experienced as being "put through, through fire".

The data revealed that the support system available to the N.C.A. candidates varied between the two Toronto law schools. The candidates at the Y (law school) had a different experience of support because they were treated like regular L.L.B. students. The research revealed that the participants who attended at Y (law school) paid the same fees, and they had access to the same financial resources as the regular L.L.B. students. They were able to take advantage of all the university facilities. The N.C.A. candidates at Y (law school) were given student cards and they could buy e-mail accounts. The students describe the efforts taken to integrate them and orient them into the Y (law school) including, but not limited to, an orientation for N.C.A. students at the outset of the school year, breakfast meetings, and luncheons. The N.C.A. students at Y (law school) were also able to organize access to legal research and a writing seminar to familiarize the students to the Canadian system of legal reporting and researching. Frank describes his experience at Y (law school) in this manner: "Y (law school) has been really good in that they have treated me exactly the same as the other students as far as I can see unless I'm missing out on something here. I think I've been treated very well here." Dennis concurs in his observations that "When you apply here you pretty much get everything that every other student is entitled to, as far as I know, the only thing different is probably the degree". Furthermore, the Access, Admissions and Support Officer at Y (law school) was described by many of the participants as taking a personal interest in the welfare of the
N.C.A. students. Although very busy at times her personal involvement in the students' progress and the program was repeatedly raised by many of the candidates as making a difference in their experience. Nevertheless, the candidates at Y (law school) still experienced hardship throughout the process of accreditation but they found efforts being made at the law school to alleviate some of that hardship.

The financial burden on the candidates is enormous at both law schools. Dennis describes his difficulty trying to make ends meet even with support, commenting that his wife's wages,

barely, barely barely in terms of the finances, what she works for barely covers the rent, expenses that sort of stuff. If it wasn't for loans from school we'd probably be up the creek. In terms of basic necessities, like we don't go out to dinner, we don't go eating, we don't do a lot of stuff, we don't buy clothing regularly, just necessities.

Frank's situation is more difficult because he didn't qualify for an Ontario Student Loan. He comments,

The financial burden is extreme for me because I can't get an O.S.A.P. loan, because I haven't been living in the country for 12 months nor has my wife, which is a real problem ... we are living at her parents'. They don't charge us anything. We live in the basement. It's great.....but if I have to stay there any longer! But if we didn't have her parents over here I wouldn't have bothered making it because we would have had to finance living expenses as well. My wife was doing her Ph.D. so she couldn't have worked, so it wouldn't have
happened. The financial structure isn't there to do it other than if you can do it yourself.

The mature students in the study expressed a specific need for support relating to their more complicated life situations. For some of these participants the need for support for family responsibilities, and child care was discussed. Other mature participants sought employment opportunities to support themselves where they could not live with family. For one candidate the financial hardship was addressed through part-time learning opportunities that the law school offered which enable him to work and study at the same time to support himself, but which significantly extended the period of retraining time. This arrangement proved "difficult" trying to balance work and study. For another candidate who had arranged to complete the requirements as quickly as possible and who could not work, the financial pressure associated with the accumulated fees caused great distress, and exhausted substantial savings while she struggled to raise two children and retrain at the same time.

The data collected from the participants in this study suggests that the lack of support for the N.C.A. candidates in the accreditation process went beyond the scope of the N.C.A., the law school, and the Law Society. The data revealed a lack of support targeted at new professional immigrants preparing for, and in the process of, retraining. The period when new immigrants initially arrived in Canada and were waiting for their landed immigrant status was described as "frustrating", "being left up in the air", and "in a state of flux". During this period the participants observe that they could not start their application to the law schools without landed immigrant status without attracting the overseas tuition fees. Throughout the wait for their landed immigrant status they have trouble supporting themselves and drained crucial resources that had been saved for the
period when they would be retraining. Dennis was angered by the helplessness of his predicament when he arrived in Canada. He states,

In the U.S. they are pretty strict about working and being illegal. I didn't want to do that and then be denied law school or admission...but I've got a big gripe against immigration. I was married legally, I was living here legally, I wasn't allowed to support myself in any way. No one could tell me what could I do in the mean time, basically nothing. They didn't say you're going to have to try to live somehow. So that was my gripe about immigration, that there's no support for people moving here, basically, I was supposed to stay in the U.S. until I got my status and then come here. But I didn't see the point of being married and living in two separate countries.

Frank observes that the ineligibility of new immigrants to qualify for the Ontario Student Loan Program based on the lack of their residency 12 months before their application is a prima facie case of discrimination against immigrants.

The study suggested that the lack of support and the services at the law school and in the community impacts disproportionately on individuals without personal economic and social support systems in place. The data in this research suggested that some of the recent immigrants in the program experienced the greatest hardship as compared to the Canadian candidates. The Canadian candidates in the program described the same cost issues but also described personal support systems, and roots in the community which enabled them to handle the financial burden more easily. Even with extensive support systems in place, and with full knowledge going into the program, one Canadian candidate described the accreditation program as "an endurance test" which challenged his personal commitment and which required tremendous support from his family. The data in the
study showed that the Canadians in the program were able to garner significant support from their families. The Canadians in the program openly acknowledged that the immigrant professionals in the accreditation program encounter well qualified Canadians with strong support systems already in place who are vying for the same positions as them. Howard, a Canadian in the program, commented that he felt the immigrants in the program were in danger of becoming swamped by Canadians with better resources who were after the same limited spaces in the law schools.

4.35 Information

The data in this study revealed that the participants' experience of the accreditation process was directly affected by their understanding of the entire process leading towards licensing. The participants expressed the need to know all of the steps that would lead them to, and through, the B.A.C. and they expressed frustration at going through the accreditation process without knowing what was expected of them at the next stage. Basic guidance and counselling was lacking. This affected the participants' ability to plan and prepare. Frank attributed the lack of assistance and guidance from the profession to new comers seeking access to the profession to the fact that there is no shortage of lawyers in Canada and therefore no need for additional lawyers in the profession. He suggested that the process is made more difficult through lack of information. He commented,

If I knew everything that was required of me, it would have gone a lot smoother, a lot less anxiety, generally speaking. It's been really stressful, waiting on people, applying for stuff without even knowing if you've got the right requirements to apply to them, because you're waiting on someone else, and waiting on them, because of somebody else. It very disorganized. There's not enough co-ordination, and this goes back to the fact if they were crying out for lawyers over here they would be co-ordinated...right now there's no
need for it. The implication is that it's a tough profession you've got to meet our standards. We're not going to make it easy for you. This is what you are going to have to do if you want to become a lawyer. You do it!

The participants described the first official information they received on the process as the N.C.A. information package which includes an application form. The participants in the study described the information provided by the N.C.A. as "helpful" and "straightforward" and the application as a "basic application". They explained that the N.C.A. package was clear about directing them to apply to the N.C.A. to start the review process and to make arrangements for admission to law school on their own. Some candidates felt that the package also indicated that there was no guarantee that they would ever practise law in Canada just because they had undergone the accreditation procedure. Most of the participants said they knew from the information in the package that they would have to undertake some kind of retraining but they were not sure if it would be exams or further law school. The package was described as giving a synopsis of the criteria the N.C.A. uses to evaluate their credentials and giving sample cases of evaluations so that the candidates know what to expect in terms of how their own credentials might be evaluated. However, the N.C.A. information package does not lay out what the candidates need to know about the process. Ellen commented that "I knew I had to apply to the Committee and get my own place at the law school. Because they were very specific about that. That's all I knew."

Ultimately the information provided to the candidates throughout the process proved inadequate to meet their needs. The candidates described their uncertainty and confusion about the process. As a result of this lack of information they felt unprepared for the experience of the process and for the future. Charles commented,
I think generally there is a lot of uncertainty and a lack of information, for example, I don't know what the prospects are for jobs, what the N.C.A. students have done, where they have gone, which kind of law firms might be hiring, so there is basically no information available which is targeted to N.C.A. students...And there isn't any package that you get, ah explaining what life is going to be like as you decide to get accredited.

The study revealed that the lack of information to the candidates starts at the very beginning of the process when they are applying to the N.C.A. and the law schools. The participants reported that during this time, throughout all of their contact with all of the bodies involved, the N.C.A., the law schools and the Law Society, they were never told about the procedure for the articling program and specifically about the deadlines for the "Matching Program". Dennis described the situation as a "big overlapping of deadlines". Most of the candidates had no idea before they started the process that the deadlines involved were multiple and that they all converged at the same time during the summer before they even started retraining or knew if they had been accepted into a law school. In fact most of the candidates were not even aware of some of the deadlines at all. More than one candidate pointed out that the law schools were making decisions at this time about their admission before the candidates themselves even knew the outcome of their N.C.A. evaluation. Moreover, in order to take advantage of the articling "Matching Program" the candidates would have to register and send out resumes to law firms before they knew if they had received admission into a law school. Even with the critical information about the timing and procedure to follow this stage proved difficult to negotiate for the candidates when there was so much uncertainty surrounding their status.

The combination of the lack of co-ordination of the bodies and the disorganization of the program was heightened by the lack of information to the candidates. The problem
was the most difficult for the N.C.A. candidates given 30 credit hours (or one year) of retraining from the N.C.A. at a law school because these candidates are dropped into third year and they miss the articling recruitment and activities at the law school that occur during the second year of law school. At that time the information on articling is distributed to the regular L.L.B. students and the N.C.A. candidates have a better chance of receiving it. Dennis described the process of realization he went through. He said he found he had missed the "Matching Program" during the term through other students. At first, he said, he was in "disbelief" and he thought this couldn't apply to N.C.A. students or they would have been given this information. Then he said he was "incredulous". He observed,

I didn't realize the big significance of the matching program deadline.

Needless to say the deadline had passed so I couldn't be part of the student body interviewed for articling after I graduate. I'm pretty much stuck without an articling position because I didn't go through the all-important matching program...because at no point in any of this was there any mention of a deadline for articling and you have to article and in order to article you have to submit your resume for this.

Ellen also missed the deadlines for lack of information. She pointed out that she couldn't know what she had not experienced and she couldn't ask the right question without enough information. She maintained,

..because I had never experienced it I didn't think to say is there any thing else like deadlines. If you don't know, how would you know to ask? Maybe I should have asked an open question like "Is there anything else that I need to know?" from somebody at the Law Society. Certainly the N.C.A. didn't tell
me; it was not in their package. No mention about articles other than you have to complete the process. But nothing about deadlines and Y [law school] didn't mention anything other than "We have an articling office to assist you in finding articles."

Ellen goes on to say that one line in the package saying "make yourself aware of the deadlines" would suffice because it would have triggered the candidates to ask for the information. Dennis suggested that immigrants are more exposed in the process stating "Because of the way the deadlines fall, and especially for someone like me coming from somewhere, that's never encountered an articling type situation, I didn't know anything."

Dennis characterized the process as one that "precludes" the N.C.A. student from the next essential step in the licensing process, namely the apprenticeship stage. It also precludes the students from their first access to the legal industry and the social and economic integration that are attendant with that stage.

The impact of the lack of information can not be underestimated. All candidates were proactive in their efforts to obtain information and make arrangements for themselves and their families. However, lack of information addressing their needs, assisting them in the transition into Canadian society and into the law school community was identified as increasing their difficulty in the program. The lack of information led some of the candidates to feel a sense of being misled about the process and unprepared for what was in store for them. Frank described learning about the competitive Canadian legal market from a Canadian in England and he was told it was "very tough, very tough". This feedback "saved" him as he was "completely unaware". Betty communicated this many times during her interview stating she was "thrown off guard" by the style of exams and the extensive costs. She described feeling the N.C.A. had made certain retraining
options "look attractive" when they turned out to be more difficult for her. All of this contributed to her anxiety about her future. At one point in the process she states,

..my immediate anxiety was tackling administrative law, which had become, like my whole career was in jeopardy on this paper, my survival in Canada, because, supposing I had failed that exam, for some unforeseen reason, in the university that means that I have to fold up my career as a lawyer, and start the L.L.B. course from scratch, one.

Betty communicated a feeling of the unfairness in their situation, when so much was at stake. The participants' reactions to the consequences of the information gap ranged from "anger", to feeling "cheated", "awful" to "foolish". Betty says their survival, not only in law but in Canada, depended upon their coming prepared. This required at minimum adequate and accurate information to the candidates about the process and about what to expect in terms of support.

The data showed that despite the brochures provided by the N.C.A., the law school and Law Society, the candidates obtained information through personal and informal sources. The research indicates that a major source of communication and information came from other students and friends in the industry and not the personnel and administration at the institutions. For example Dennis describes finding out about the articling process from other students, saying "confirmation was basically word of mouth from students". Ellen discovered information about articling from a firm in the industry. She says after sending out her resume she received a call "from one person who, kindly called me up and said 'Did you know that you've missed the deadline and you ought to be in the matching program?'. And I had no idea what any of this meant". Frank and Greg were quite open about the fact that they had relied on sources and help from lawyers and
well connected contacts in the industry who had proved invaluable in managing the application process. Similarly, Irene suggested she had friends who were ahead of her in the licensing process and who were telling her what to expect. Dennis describes the information flow.

If you don't know anything about it then no one tells you anything. It seems it's pretty much you get the most information when you are in school, and you are with other students that piece meal, they have some information, that you kind of put together on your own.

The data revealed the need for information as a recurring theme for the candidates regarding the profession and for the profession regarding the candidates. Although some of the candidates had sources in the industry helping them with the licensing process, other participants perceived a lack of information in the industry on the program and the candidates and they felt this affected their competitiveness in the job market. Abby felt that "Most of the law firms have not heard of this program because there are so few of them, and then it makes a difference because you have not gone through the regular three years." She further explains that with the "stiff competition" the firms have no idea about the standard of your foreign university, how you compare with Canadian students, and the weight to give your foreign grades. She observes that the firms get so many applications for jobs that they don't have time to investigate when "something is different" in an application. She believes that under the circumstances even her incomplete Canadian transcripts "would be given a lot more weight than the degree that I've done back home".

However, the data suggested that some of the candidates discovered pockets in the industry that did have some exposure to N.C.A. candidates and lawyers with foreign credentials. The candidates who interviewed with large firms in Toronto contended that
the firms were aware of the program, the difference between the L.L.B. and the "Certificate of Qualification" and some law firms even had students from abroad working for them. Greg, Irene and Howard commented that they had no difficulty during their interviews with the large firms. They felt their foreign credentials and their letter from the N.C.A. explaining their "Certificate of Qualification" requirements were accepted and they were treated the same as the regular L.L.B. candidates. Similarly, Frank states, "So as far as they were concerned I was in just the same situation as any other second year student who has to successfully finish a year at Y [law school]." However, the study showed that, even though the large firms were familiar with the N.C.A. program, they were not as familiar with the foreign degrees and the foreign marking standards which had to be explained to them. The participants also qualified their comments and explained that they found that the smaller firms had less information about the program. Howard felt that in general Canadian lawyers in the industry were more knowledgeable about American degrees than other degrees "because of N.A.F.T.A. and the relationship between the United States and Canada." Nevertheless, Howard said that he had no problems in his interviews, no "implications" that he was not as qualified as a regular student with an L.L.B., and his reception with the firms was not negative because of his British degree.

4.36 Retraining

The participants' attitudes towards the need for retraining were extremely positive and professional. All the participants believe that some kind of retraining was necessary to maintain professional standards and they felt that the appropriate retraining could be a benefit in making the transition into the Canadian legal system. Charles found excitement in the content of the law he was studying but not in the program. Abby was the most positive and described the actual law school courses as "useful", "necessary", a "benefit" to the candidates. Betty found the lectures a way to "better understand the subject" and "a
way to enlarge the scope of your practise" to give a good all-round grounding in Canadian law.

The specific course work itself was a concern for the candidates. The study revealed that the participants found much of it repetitive. At best some courses were "useful, but not essential". Some participants suggested that the new Canadian content could have been acquired in another forum such as at the Bar Admission Course and it didn't require further years of law school. Some of the participants questioned the need for returning to law school for the retraining and they maintained that many candidates were well able to attempt the Bar Admission exams. Howard observes,

I think a lot of American students could go straight to Bar Ads and a lot of the English students too could go straight into Bar Admission. And why can't it be your personal responsibility? If you can't pass the Bar Admission then you don't pass.

Frank maintains that in retrospect he realizes he could have bypassed law school and gone straight to the Bar Admission Courses, commenting, "I don't think this is an all-important stage. I'm glad I've done it. It's done more for my confidence than my ability. It's a boost to your confidence." He continues to note that the courses are a good way to learn about legal tasks in the "context of the Canadian system" which gives you an understanding why you are doing certain tasks and he cites civil procedure and constitutional law as useful. Ellen maintains "The cases are Canadian, but then again the principles are pretty much all English. I know all the principles...it's the process that is slightly different". For this reason they also found the procedural courses helpful to orient them to the workings of the Canadian legal system. However, Ellen maintains, "I don't think that the L.L.B. really helps that much for any student, let alone one that has already done it". Betty concurs and
argues for the option of going straight into the Bar Admission Course to study and be examined. She suggests that candidates have "the core knowledge", "the basic principles", "the basic skills".

Dennis states that the retraining is "repetitious to a whole degree. For me it's basically what a revision of what I've done in law school". He states there are "different statutes but nothing new". Of his reason for being in law school again he comments dryly,

What am I doing here? Jumping through hoops, jumping through hoops. This is what you have to do. I mean I could say I won't do this but then I won't be able to go through the Bar Admission process. If I didn't have to do this, if I had something else to do, I'd do it.

Although the students found it worthwhile to become familiarized with the Canadian system of law they did not necessarily feel that the retraining experience actually integrated them into the practise of Canadian law. Moreover, they didn't feel that it had enough to do with the real practise of law. Dennis comments "I don't think it has anything to do with it. I think the real thing starts when you do the Bar Admission Course". The candidates with American degrees describe the content as being so similar and repetitive that they were able to use their summaries from the United States and fill in the Canadian case names in the margins during lectures.

The theme of using the course work to shape their future practise of law also came through Betty and Charles; however, they were less enthusiastic about the relevancy of the course work required by the N.C.A. Betty wanted more practical courses and Charles wanted more specialized courses. The curriculum was described by the participants as "dictated" to them and lacking choice, coherence and resulting in a disjointed and poor
learning experience. The candidates questioned the rationale for being assigned some of the courses. By way of example they point out that the N.C.A. candidates must take Taxation whereas the regular L.L.B. do not have to take the same course. One participant characterized the course work as "a bit of a joke" because it ensures equivalency to the L.L.B. and yet the N.C.A. candidates have to master subject areas that the regular candidates don't have to take as part of their program.

The participants suggested that retraining must maximize opportunities to gain access to the profession. Similarly the participants complained that a major obstacle to integration into the profession was the lack of the L.L.B. degree at the end of their retraining. They perceived the distinction between the L.L.B. degree and the "Certificate of Qualification" as negatively impacting on their competitiveness and their ultimate access into the profession. Abby describes the lack of the degree as a "major disadvantage" and says that the Canadian law degree has more weight than the certificate. In the end Abby wants to be "on par with the regular student" and this means having the same degree so she doesn't have to explain to the law firms the difference. Betty refers to the certificate as the N.C.A. letter which will confirm her completion of the accreditation requirements and she says that "If I have been put through a system like this, then at the end of it I should get an L.L.B. ....you put out a lot of money, a lot of heart burn, at least something better than a letterhead." Charles captures the significance of the difference between the degree and the certificate in terms of the ultimate integration into the profession. He comments,

So there isn't the kind of competitiveness that the other law students have that are doing the degree...Because...It doesn't really matter...Because at the end of it you're not going to get a degree or anything, you only get a certificate saying you completed these courses....I'm very concerned not only about articling but also whether doing, putting it all in a resume whether
there is going to be any pay off in terms of a job. I think like from other areas there's bound to be some discrimination against N.C.A. because they have a different experience... I think lawyers are a conservative bunch and, for one thing, they select people like themselves... from main stream lawyers, so the preference is that a lawyer will recruit someone from his own law school who has had a similar kind of experience. Therefore a J.C.A. student is pretty isolated and therefore, by implication, is going to be left out in the cold.

Notwithstanding Charles' concerns about the value placed on the "Certificate of Qualification" over the L.L.B, some of the participants who had been to interviews at the firms were satisfied by their reception as N.C.A. candidates. Others observed that it didn't matter to them what they called the degree they received at the end of the retraining as long as it was recognized as equivalent to the L.L.B. Dennis points out,

I'm assuming that my degree from the U.S. is recognized, ... and that my J.D. is the equivalent of an L.L.B. So having an L.L.B. is redundant. I'm happy enough to be able to be admitted to the Bar Admission, that at the end of the day it's the Bar Admission that will count, and not what's before, not the degree, whether it be an L.L.B. or a J.D. or whatever..

However, most of the participants commented that they would appreciate some "recognition" from the law school they attended.

The data suggested that the method of retraining also affected the candidates' experience. The study revealed that the challenge exams, offered to the superior qualified candidates, allow the candidate to independently study and take the exams without having to incur the time and expense of going back to law school. The option of the challenge
exams circumvents the difficulty of obtaining admission to law school. Irene described the option she was given as a "back up" plan in case she didn't get into law school. However, all the candidates expressed reservation about the challenge exam option commenting on the lack of instructional assistance, and the uncertainty they had with the evaluation of the exams done independently by a professor in the legal domain with whom the candidate is unfamiliar. The participants in the study had the impression that if you chose the option of the challenge exams you have to "struggle on your own" without assistance from the N.C.A.. One of the participants who chose to complete some of the requirements by way of the challenge exams found the experience particularly disconcerting, the review process empty and the procedure unfair. Moreover, the data revealed that for many of the participants at Y (law school) the cost of challenge exams and the time commitment worked out to the same as retraining at the law school. Dennis points out, given the difference in the assistance you receive at law school for the same cost and time commitment as challenge exams, it made the decision "pretty easy".

I had to take eight exams. It would take me a year anyway to do eight exams, because you could only take pretty much four at a sitting,... and the exams are given in two semesters, so it would take me the same year. And the cost is pretty much the same, the cost of the exams,... round figures it's about $450, give or take $20 per exam,... now 400 times eight that's about $3000 or more and one year tuition here is about there, so the cost is about the same and you get the bonus of the school setting, all the facilities, library and, most important for me an instructor.

While the candidates at X (law school) would have found the cost of the challenge exams more attractive given their higher fees at X (law school), these candidates also expressed similar sentiments and reservations about exercising the challenge exam option
because of the lack of monitoring, supervision, support and guidance throughout the process by the N.C.A. Overall the candidates felt that the law school courses provided an advantage in this regard because of the support involved, the instruction given, the professor who set and marked the exam was known, and exam styles could be reviewed. Howard commented that he was "completely suspicious" of the challenge exam option after his personal experience with the other parts of the accreditation process. He questioned "Who's writing the exam? How much do they know to put into the exam? What are their qualifications? Who marks them? What is their knowledge based on? How are people passed?.."

The candidates' experience with the faculty and student body at the law schools was extremely positive. Abby describes the faculty as "pretty fantastic" and "really very good". She emphasizes that the faculty attitude toward the N.C.A. students is no different from that toward the regular students. Betty says "..I think, as far as teaching is concerned, here the class of teachers is totally different...they are totally devoted, they're thorough. I have praise and admiration, nothing else." Charles was more reserved and stated he had little interaction with the faculty, but he did describe the one professor he did connect with as "incredibly bright" and very "nice". Other participants maintained that the faculty did not know the difference between the N.C.A. students and the regular L.L.B. students and treated them just the same. Ellen suggests that the faculty don't know or care if you are an N.C.A. candidate, and that "it's irrelevant" to them. She states "Nobody really differentiates. They're quite pleasant." On occasions when their status was discovered the participants described the faculty as taking an academic interest in them by asking about the legal practices of the jurisdiction where they were trained. Irene observed that some of the professors would invite responses from the N.C.A. candidates about the direction of the evolution of laws particularly in the United States. She attributes this to the American influence on Canadian law. Irene found the faculty attitude positive toward
the N.C.A. candidates, mindful of their previous legal training, and respectful of their knowledge. Although the candidates at X (law school) said they had heard rumours that "certain faculty did not like N.C.A. students", they emphasized that this was not their experience at the law school. Irene commented, "I don't think they discriminate against us at all. Like I know some people have said 'Well you're an N.C.A. student, your marks are going to reflect it.' I didn't see that at all in my grades that I got over the winter term at all." She recounts examples of professors being helpful and mentioned that when a course was full she called the professor directly and she was let into the course.

The study revealed that the attitudes of individuals in the administration often made a big difference with the students' experience. At Y (law school) the attention of one individual made the process much smoother for the candidates. Frank describes applying to the law school from abroad which meant communication long distance back and forth with the necessary information. He explains he was faxing documents to Y (law school) and he was in constant contact with the Access, Admissions and Academic Support administrator of whom he says, "...she was great, very, very helpful". He explains that this individual was forthright about the law school admission process and the numbers of places and the timing of the decisions and the meetings which alleviated some of the tension and uncertainty involved in the process. Frank was not the only participant who remarked on the efforts of this individual in helping with the transition of the N.C.A. students into the law school and legal environment. Each of the candidates who attended Y (law school) described a personal meeting with the Access, Admissions and Academic Support Officer upon their acceptance into the school for scheduling and other purposes. Moreover, she was receptive to the candidates' suggestions and ideas about improving the accreditation process at the law school and she acted on their suggestions, making changes that would enhance the process.
The style of teaching at the law school was noted by some of the candidates. The Socratic method often used in American law schools was not as prevalent in the law schools in Toronto especially in upper year courses. Similarly the lecture/seminar method used in the United Kingdom was not used in Toronto. In general, the participants found the lecture method adopted in the two law schools as much easier and not as demanding as their previous training. Irene pointed out that the Socratic method was very challenging and kept you on alert in class. Frank and Irene noted the lecture method allowed students to be anonymous in class and "spoon fed" the material. Frank pointed out that the lecture/seminar method in Britain typically meant you would have a lecture and one or two intense seminars each week for a course. Both the U.K. and U.S. candidates commented on the greater volume of cases and material covered in their previous legal training. Frank says of his British legal training "you go through a lot more material, and in greater depth". For these reasons they found the lecture method in the Canadian law schools much less pressure. However, one student pointed out that at this stage of the candidates' career the lecture approach was better for mature students who had adult independent learning skills. Overall the participants felt that this was their fourth year of law school and they lacked the same motivation they had in the earlier years. While they remarked that the lecture method was easier for them they were content with the style.

Charles described the learning experience of the accreditation candidate as "more complicated" than that of the regular LL.B. student because "there's no integration [of past and present learning], or there's no heuristic way of organizing this knowledge separately." He pointed to a need for a comparative conceptual framework within which to work when learning Canadian law. The need for a larger context in which to place the substantive content of Canadian law came up among the candidates especially as the candidates were attempting to make sense of two legal jurisdictions. Charles sums up the program.
First of all I think it should be pointed out, it's not a program. It's pretty much a piece meal project...There is no cohesiveness to the courses you are asked to do. So unlike the law school experience for undergrads who come in, where they do a full program and there's a lot of cohesion and you actually have some sort of conscious intellectual growth, there isn't any. In our thing, in the way the N.C.A. student goes through the "program", in quotes, it's pretty slap dash, and you get what you can out of it. It's basically more like hurdles where you are doing this course and that course, and at the end of it, hopefully you are a lawyer.

Charles calls the experience "not much of an experience other than a bunch materials", "I call it a disorganized, slap dash experience, it's not exciting...not very consciously designed".

4.4 Summary

In summary the data reveals that the participants' experience of integration was affected by many factors connected to the administration and implementation of the N.C.A. program. The participants in this study described their lack of understanding of the process of evaluation of their credentials. They expressed concern over the manner in which their credentials were evaluated. The candidates in this study questioned the legitimacy of the assessment process, challenged the necessity and fairness of requiring further training, and objected to the arbitrariness of the courses ultimately selected by the N.C.A. for their retraining. The data revealed that the participants held the perception that degrees from the United States and Britain were treated more favourably in the assessment process than degrees from other parts of the world because they were given fewer retraining requirements. Although the candidates who participated in this study felt their
skills and foreign credentials were valuable and transferable, they argued that they were penalized by the accreditation process for their diversity and foreign experience.

The data in this study shows that the disadvantage experienced by the N.C.A. candidates was exacerbated by the administration of the program. The lack of coordination between the administrative bodies negatively affected the N.C.A. candidates in this study. The candidates felt that they were treated inconsistently between the bodies in the admissions and administrative processes. Crucial information on the licensing process was not communicated to the candidates and supervision of the candidates by the administrative bodies was lacking. The data revealed additional difficulties for the candidates in the high costs associated with retraining and the corresponding lack of support and services provided to the candidates in the program. These factors undermined the candidates integration into the legal profession and the larger community as the candidates struggled to survive economically and to orient themselves socially with very little assistance or regard from the legal community.

The data showed the candidates' ability to effectively respond to the onerous conditions of retraining was impaired by the lack of information throughout the process. Information about the retraining and licensing process was, at best, incomplete and, at times, simply lacking leaving the candidates feeling confused, misled, discouraged and unprepared throughout retraining. The participants in this study suggested that a period of retraining would be useful if it provided a Canadian context to the legal principles that the candidates brought with them into the program. However, the data showed that the candidates felt that the accreditation program, as they experienced it, was not designed to meet their needs in this regard. It was described as repetitive and irrelevant. The process of retraining served to distinguish the N.C.A. candidates from the regular L.L.B. students rather than establish and recognize their equivalency. These conditions for retraining
together with the attitudes taken toward the candidates and their foreign credentials heightened the difficulty of accreditation for the foreign trained lawyers in this study and, in the process, undermined their integration into the Canadian culture of law.
CHAPTER FIVE
DATA ANALYSIS: DISCUSSION

5.1 Difference and Diversity

This research study shows that at the centre of the experience of foreign-trained lawyers in the accreditation program is the value assigned to, and the treatment of, difference and diversity in society, in professional legal education, and in the legal community in Ontario. Difference is why the foreign-trained lawyer comes into the N.C.A. program. Because of their different legal training they must establish their equivalency to the Canadian L.L.B. in order to enter the legal licensing process. The purpose of their endeavours is not simply to gain recognition, or even equivalency, of their credentials but to participate in their profession and enjoy the social and economic outcomes that may come with that participation. Therefore, recognition of credentials alone is pointless if it does not facilitate access to the profession. Ellen captured the reservations and concerns of the participants in this study when she discussed the legal industry's reception of N.C.A. candidates. Even though she previously emphasized that she felt her diversity was a valuable asset she comments,

...but if you're foreign educated, your foreign educated. And that puts you in a different group anyway. ...I don't know if it's good or bad, it's just a different group. Some employers, I guess there's a lot of immigrants in Canada and so they might think, 'Oh well this person is trained overseas and I'm from that country', or, 'I like that country' and they will be interested in me. But others might say, 'Oh I don't know if they have had the same kind of training', or 'I don't know if they know as much about Ontario law as the regular guys', or, 'It's just different', and the way they treat you goes by the individual...So I don't know. I hope they look at it as a plus point 'cause you
add a little bit more diversity of experience, you have a little bit more meat around you if you know what I mean, something else, something different, that you've been through that sets you apart.

The efforts of the participants in this study to become accredited reveal that the perception of their difference and the treatment of their difference by the legal profession is critical to their experience in the program, and, ultimately, to their integration into the legal community. The candidates themselves emphasized that they felt like "typical students", but that they were not treated as such but the various administrators of the accreditation program. An overarching pattern emerged from the recounted experiences of the participants who felt penalized for their difference. The participants considered their foreign training to be a disadvantage in a profession which they described as conservative and conformist. The negative perception of their foreign credentials was exacerbated by the workings of the administration and implementation of the N.C.A. program. This pattern was found across the experience of all the immigrant and Canadian N.C.A. candidates who participated in the study. The only variation in the pattern was in the degree of hardship experienced which was connected to each of the candidates' personal circumstances and their corresponding ability to alleviate the hardship of the accreditation process.

5.2 The Accreditation Process

5.21 Conditions of Retraining

In this study the data suggests that the participants felt disadvantaged within the legal accreditation process. The study showed that the route of access to the profession prescribed for the foreign-trained lawyer in the form of the N.C.A. program is full of hardship. The participants in this research were under the impression that the whole
education process was more difficult for them. The data suggested that candidates felt the conditions of their accreditation training were made more difficult than the regular Canadian L.L.B. candidates' legal training. They believed that the onerous conditions of accreditation were meant to be a test of their sincerity, commitment and resolve to complete the program.

The data showed that the participants in this study found the content of the retraining repetitious and they found the lecture style of teaching in the law schools less difficult than their previous training. The participants maintained that they could adjust and adapt to meet whatever challenges arose from the academic portion of accreditation in order to master the legal content of the course work. However, they believed they had little or no control over the administrative policies that undermined their experience in the program and affected their integration into the legal community. This research suggests that it was not the substantive content or curriculum of the law courses assigned by the N.C.A., nor the pedagogy, or method of assessments in the law schools that troubled the participants (even though the participants were critical of some of these elements), but rather the conditions surrounding their retraining. One candidate clarified the main concern by explaining, "it's just the process of getting to practise is difficult."

5.22 Administrative Policies

This study reveals that the policies adopted by the various bodies administering the N.C.A. program influenced the participants' social integration into the legal culture and community. The treatment of the students and the attitude taken towards them affected their learning atmosphere. The policies could heighten or lessen the difficulties inherent in the accreditation process. For example, the difference between the N.C.A. candidates' treatment and that of the regular L.L.B. students was evident in the high fees and the lack of corresponding services at X (law school). In particular, the separate status of the
participants at the law school had a negative affect on their experience in the accreditation program. The N.C.A. candidates at this school were not considered "students" and, therefore did not receive the privileges attached to student status. One student described his perception of the administration's attitude toward N.C.A. students in this manner, "The impression I got from them was, 'We've done you a favour to let you come here so we don't have to give you any rights that the rest have.'" Limiting their access to facilities and services by narrowly defining their status at the law school undermined the candidates' social integration. As a result the participants could not take advantage of the legal community at the law school. The participants were treated as outsiders within the university and they felt isolated, which only served to heighten the hardship of retraining. Moreover, the candidates were sophisticated enough to analyze the reasons given for their separate status and question the rationale of the policy. Greg comments,

My first question is, 'What purpose is it serving for you to have done this?' I don't understand. It seems like you have gone out of your way to make things different for us. Why is it in your interest not to give us a student card?, not to give us an e-mail account?, not to even include us as part of the year book or something?. Why, for example, do we share lockers? It's not a big deal that I share a locker, but it is odd to me - Why do you seem to have gone out of your way to do it this way? I don't look at it as if it really personally bothers me, and I go about my business. I'm not going to change my life in any way, because I was just going to class and going home anyway. But it's a mentality that I get from the administration that just bugs me. They seem to have done it this way on purpose. No one is making you do this. And, because, no other law school is doing this. Every other law school doesn't seem to have problems. Only you are doing this.
The exception to this pattern in the data was the experience of Irene, a Canadian candidate at X (law school). Although she corroborated the other candidates' stories of their different treatment she did not experience the same hardship as the other candidates. She described her experience as "easy". Moreover, she did not feel that the treatment of the candidates served to separate them from the regular L.L.B. students at the law school, and she maintained she was not affected by the policies because she ignored them and conducted herself like a regular student. Regardless of the position taken by the law school about her status Irene availed herself of whatever services and resources she could find at the law school. To a large extent Irene's attitude and assertiveness helped her bypass any obstacles that may have excluded her from services and facilities. For example, when the other candidates described being told explicitly by the administration that the career services were not for them at X (law school) Irene stated that when she saw a welcome sign on the door of the career services she interpreted that to include N.C.A. students and so she went in. Likewise, when another candidate described being excluded from the Mooting Competition at the law school, Irene shrugged and simply stated she competed for a position anyway and nobody knew the difference. Similarly, Irene described no difficulty with any stage of the process including the registration procedure for the "Matching Program". She stands out among the participants as having the most positive attitude towards the accreditation experience.

Irene explains that the standing of the N.C.A. student was made clear to her upon her admission into the school. She states that the administration

told us when you went there, 'Look, at this school there is just not enough room... and you're not going to be able to get the same benefits. If you want to be a student and do the whole typical student thing, go to Y (law school), there is you option'.

The difference in Irene's experience could be attributed to the fact that she was prepared for the reception at the law school and she accepted the law school's position towards N.C.A. students. Significantly, she argued that she had the choice to go to another law school but she accepted admission at X (law school) upon these conditions. This is another element that must be considered in Irene's experience, namely that she felt she had a choice and she had made the decision to attend X (law school). This factor distinguishes Irene from many of the other candidates who did not feel that they had a choice and they expressed, alternately, frustration and resignation about the conditions of the program that were imposed upon them.

This research shows that the approach taken by the law schools towards the N.C.A. candidates could either magnify or mitigate the already onerous conditions of retraining for the candidates. At Y (law school) the candidates described similar difficulties with the process of retraining; however, they were conscious of the efforts made by the administration of the law school, and in particular, one individual within the administration, to alleviate their difficulties. Although the participants at Y (law school) reported struggling with the burden of retraining, they did not have to contend with additional layer differentiation at the law school.

5.23 Support and Services

The data in this research suggests that the accreditation experience was made more difficult by the lack of support provided to the candidates in the program. Services and finances to offset the costs of accreditation, to assist in transition to the new legal culture, and to help the participants cope with the onerous and awkward conditions of retraining were scarce. The data shows that this lack of support not only increased the hardship for the participants but, for some of the candidates without extensive personal support, it jeopardized their survival in Canada. The Canadian candidates were able to offer valuable
insight into the extent of the problem for their immigrant colleagues in the program because the Canadians had an established support system in the community with family networks upon which they could rely. Nevertheless, they described the extreme burden placed on their support systems and the need for additional assistance for all the candidates. The hardship for new immigrants in the program, especially those without sponsorship or family, was highlighted in the data. Struggling just to cope with the economic and social dislocation experienced in the program, the participants felt their ability to maximize their potential and to compete with the regular students was diminished both academically and for articling employment opportunities. The data in this study suggested that targeted support was lacking for N.C.A. candidates and this impacted on their transition and integration into the community. The lack of support for new immigrants and in particular the lack of services available to meet the needs of professional immigrants is consistent with the literature reviewed for this research (e.g. McDade, 1988; Cumming, 1989; Abella, 1984).

5.24 Lack of Information

The data shows that lack of information is a major problem that runs through the participant's entire experience in the N.C.A program. The candidates lack knowledge about what's expected of them, the processes they must go through towards licensing, and the opportunities available to them in the profession. Confronted with this lack of information the participants found it difficult to compete with the regular L.L.B. students for jobs. In this way, the data suggests that lack of information negatively impacted on the participants' economic integration into the legal community. Dennis explains that lack of information can hinder the candidates proceeding into the licensing program.

I guess the biggest gripe I have is the process and the lack of information and lack of knowledge and communication with articling which is a big, big
requirement, for being admitted, a big requirement, and that seems to be missing somewhere. There's a big gap. No one has information on that. It's something that the law schools, I guess they would have control over. But the Law Society gives deadlines also, and I see that no one has that information. The N.C.A. certainly doesn't have information. And in terms of actually what you need to know, basically, the N.C.A. should be telling you, you should consider yourself a second year student, as it concerns deadlines. But there is just no information given. But that's my biggest gripe. It's just the biggest thing is an articling job, to proceed, and you're precluded from it....and then of course the N.C.A. process. It's a system, a bunch of hoops that you have to jump through and once you've got the final determination you are on your own.

The break down in communication to the candidates from the administration of the program is most apparent in the overlap of the multiple deadlines, including the N.C.A. application, the law school admission application, and the Law Society's registration for the B.A.C. The candidates need specific information in order to participate in the next stage of the licensing process, namely articling. The data in this study reveals that the N.C.A. does not provide information to the candidates on the complete process of licensing, from accreditation to the writing of the Bar Admission exams. That information is left to the Law Society. Unfortunately, in the present system information on the B.A.C. comes to the students in second year at the law school. Articling week at the law school involves representatives from the law firms visiting the schools to address the students and show case themselves. Information is given out regarding registration for the articling "Matching Program". However, the N.C.A. candidates who have only one year to complete are not in the law school, let alone in the country during the second year when articling recruitment starts. They come into the law school as upper year students after the
recruitment deadlines and interviews have long past. Therefore, when they start their retraining they have already missed the articling "Matching Program".

The data in this study showed that some of the candidates simply missed the deadlines altogether because they didn't know enough to even ask the right questions about the process. Other candidates found out about the deadline by chance on the day of the deadline when they received their admission into law school. Some of these candidates scrambled to get registered and to put together a resume to send to the participating firms. Still other participants obtained the information about the process through friends or contacts in the industry. Even those who had obtained the information found the deadlines pressing and experienced difficulty negotiating the process alone without information or supervision. Only one candidate reported that she did not have trouble with the process but she acknowledged she had been prepared by her friends and not the N.C.A., the Law Society or the law schools for the process.

As a result of this gap the candidates do not have the information they need to participate in the "Matching Program" and are left out of the main recruitment process for articling positions. Articling is not only apprenticeship training, it is a significant part of integration and access into the practising profession as a necessary step in the licensing process. The consequences are felt in economic and social terms. The candidates can not be Called to the Bar without successful articles and they are delayed in their process of licensing and access to the profession until they obtain their articles. This research showed that the information flowing to the candidates in the N.C.A. program about accreditation and licensing was inadequate for the candidates to successfully negotiate the transition between the two stages. Therefore, by virtue of their N.C.A. status these candidates described being disadvantaged in seeking access to the profession.
It should be clarified that the articling "Matching Program" is not the only way to secure an articling position. The "Matching Program" is a service offered by the Law Society that a large number of Toronto law firms participate in to hire articling students. However, some firms hire students throughout the year and do not participate in the "Matching Program". Students seeking articles can continue their job hunt on their own after the completion of the "Matching Program". The advantage to participating in the "Matching Program" is the number of firms participating, their size, and the number of positions available. It is an intense recruitment activity condensed into a short period of time that offers the law students a good opportunity to secure an articling position.

5.25 Industry Knowledge

The lack of information affected the candidates' economic integration in another way. The participants in this study suggested that the legal industry lacks adequate knowledge about foreign credentials and education. The data in this study suggests that lack of information about the "Certificate of Qualification" and foreign credentials undermine the goal of equivalency in terms of integration and access to the profession. At the end of the retraining period the participants are not awarded an L.L.B. degree, but rather a "Certificate of Qualification" which is supposed to signify their equivalency to the regular law student for the purposes of entry into the B.A.C.. However, equivalency must also be established and accepted in the broader legal world in order for the candidates to be able to proceed through the licensing process, obtaining an articling position and ultimately, enter the practising profession. Equivalency in the legal industry depends upon their knowledge and exposure to the accreditation program and their familiarity with foreign credentials.

The extent of the legal world's knowledge about the certificate is unclear from the data in this study. The perception of their knowledge held by the participants varied
depending upon the extent of the individuals' experience with the law firms. Some of the participants in this study emphasized that they felt the certificate disadvantaged them in the job market because the firms had little knowledge about the certificate. These participants expressed concern about their economic integration into the profession. Other participants felt the certificate did not make a difference in their job search as long as the certificate was viewed as equal to the L.L.B. by prospective employers. However, the findings in this area are tentative because the participants had limited exposure to the legal industry.

The data was more clear on the extent of the legal industry's knowledge of foreign credentials (as opposed to the N.C.A. certificate and program). The data revealed that the candidates had to explain, and account for, their different experience and credentials when approaching the legal community throughout the accreditation process. The data showed that candidates had to submit information about their credentials and education to the N.C.A. as part of their application. The candidates perceived their reception in the industry as an information gathering session on the nature of their foreign credentials. The data also suggested an uneven distribution of information about the program in the law firms, whereby the larger international firms had more information than the medium and smaller firms. The data showed a pattern throughout the legal community of a lack of familiarity with foreign credentials. This finding raises questions about the nature and extent of the equivalency achieved by the participants in the program. Even though the successful completion of the accreditation process deems the candidates' credentials equivalent to those of L.L.B. students, the data suggests that the designation of equivalency is somewhat artificial if the industry lacks of information on foreign credentials which would affect their ability to accurately assess the candidates. An inaccurate assessment resulting in the candidates' credentials being undervalued as compared to Canadian credentials could negatively affect the N.C.A. candidates' job prospects.
These findings are consistent with the literature reviewed and suggest that pervasive lack of information continues to operate as a barrier within the accreditation process. The findings also support McDade's (1988) discussion on the recognition and evaluation of foreign credentials, and specifically the comments on the demonstration of academic equivalency. McDade suggests that this prerequisite to licensing can be the biggest hurdle for the foreign trained professional. It can effectively bar the individual from their chosen profession because of the lack of information on the academic equivalency available to professional associations in Ontario. McDade emphasizes the lack of information on foreign credentials and the lack of resources available to obtain information on credentials as central to the problem.

5.26 Context and Co-ordination

The data in this research study shows that the candidates see the accreditation process as connected to the licensing process. They do not consider their efforts to become accredited as an end in themselves but rather a means to an end which is licensing in the profession. For the N.C.A. candidates in this study accreditation is the prerequisite for the B.A.C. Unfortunately, the bodies administering the two stages have separated themselves from one another. The N.C.A. operates on a national level and its affiliation with the provincial Law Society and law schools is vaguely defined. The candidates are unclear about the N.C.A. relationship to the Law Society; however, the data reveals that the candidates, nevertheless, relied on the N.C.A. for information on the licensing process from accreditation to the B.A.C., to their detriment. This research suggests that an overarching body is needed to co-ordinate the process for the candidates and to facilitate their transition into the Canadian culture of law.

The lack of continuity in the present legal accreditation program could be attributed to its structure. Different legal bodies with competing purposes serve different
interests at each stage of the foreign lawyer's education. Each body has distinct objectives and functions in the process and this translates into varying approaches towards the N.C.A. candidates. The purpose of the Law Society is to regulate the profession and this includes regulating admission into the profession. The Law Society has a duty to the public, and its own membership, to ensure a standard of competency within the practising Bar. The law schools, by contrast, are ensconced in the university tradition of education. As part of the university the law school serves and advances the interests and objectives of the academic world of the university. The N.C.A. is a body that is linked to both the law schools and the Law Society in that it establishes equivalency to the law schools' L.L.B. for entry into the Law Society's licensing course. The competing purposes of each body reflect competing educational, societal, and professional interests and values.

In all of this the least powerful stakeholder is the N.C.A. candidate who, in this study, perceived little regard for their interests or learning experience. As a result they suffer an ill defined, expensive and extended retraining agenda. This research points to the need for a greater centralization of the program and the need for one body to co-ordinate the process. The objectives of the university law school program may not be broad enough to include the objectives of an accreditation program. Moreover, if the objective of the accreditation program is to establish equivalency in order to enter the licensing program towards practise, there is a strong argument for the Law Society to take a greater role in the process which will require greater co-operation between the N.C.A., the law schools and the Law Society. The data suggests that, at the very least, the Law Society must become more involved in the program and the supervision of the candidates.

The data points to a need for the accreditation process to be placed in a context, because the candidates see it as a part of the larger licensing process. The candidates seeking accreditation are on the road towards licensing and they need complete
information about the whole process, not just information about the discrete stages of the process. In order to plan and prepare their route toward practising the candidates in this study expressed a need for a map of all the stages of retraining and licensing and how they connect. The study reveals that a lack of context exists to the information which is disseminated piece meal and without regard to the candidates' lack of understanding of the Canadian system of licensing. This affects the candidates' understanding of what is required of them and impairs their ability to cope with the rigors of the program. For example, Frank, who applied for accreditation a year in advance, and who knew about the system, comments that he almost missed out in the articling program because "the penny didn't really drop because it seemed so far in advance...it was explained in isolation so I didn't see it in the full context". The situation is heightened for candidates from abroad who are less likely to have the information connections in the local legal world. They are most vulnerable to the gaps. The candidates in this study described "panic", "surprise", being "shell shocked" "unprepared " and "completely unaware" for the process ahead. To compound matters they are met with the competition from the L.L.B. candidates who have a natural home advantage, who are more familiar with the education and legal system and who have been given greater assistance by the administrators of legal education. Their course work and curriculum has been worked out and dovetails into the licensing process.

By contrast this research shows that the N.C.A. candidates are being left to navigate the process of accreditation largely on their own. The data suggests that after evaluating their credentials the N.C.A. offers little to the candidates by way of supervision. The candidates maintain that once they complete their courses work they must arrange for their results to be sent to the N.C.A. who will issue the "Certificate of Qualification". Dennis described the extent of the N.C.A.'s post-evaluation supervision as "they pretty much cut the strings...you get nothing from the N.C.A. because everything from here on is just you are on your own .." The N.C.A.'s lack of involvement with the candidates
throughout the program led some of the participants in this research to question its legitimacy and to wonder why they are paying fees for accreditation. These attitudes on the part of the participants reflect a lack of confidence in the process. The data shows that the N.C.A. candidates are separated from the regular L.L.B. candidates at the law school and they are left unmonitored by the N.C.A. so they do not feel as if they are being integrated into the legal community. One student says,

I don't see any integration at all. I just see it, at least I feel that it's just a matter of, not integration, but just an evaluation of your credentials and a strict and significant emphasis on "pay the fee", and "get all the documents in by the deadline". Once you pay the fee and submit the required documents we'll give you a stamp saying, "OK. go ahead, you can do whatever now." I don't see it at all as integration; it's just, to put it bluntly, it's kind of a money making thing, paper work, nothing, nothing personal with people at all.

The participants in this study describe retraining conditions that are defeating, and a disjointed learning experience that lacks cohesion, organization, relevance and design. Moreover, the research shows a lack of guidance by the N.C.A. itself. For all these reasons one participant took exception to the N.C.A. retraining being called a "program" at all.

5.27 Evaluation of Credentials

The data revealed certain inconsistencies in the participants' perception of the N.C.A.'s evaluation of credentials. Some of the participants felt that similar degrees and experiences were given an almost formulaic treatment resulting in similar, if not identical assessments by the N.C.A.. The participants commented that this treatment belied an individualized, case by case, approach to evaluation. However, other participants
described the assessment as "ad hoc" and "subjective" with no apparent system of evaluating which resulted in similar degrees and experience being given varying assessments. The data on this issue is inconsistent. However, the contradictions in the data suggest the participants' overall dissatisfaction with the way in which their credentials were handled by the N.C.A. It could also illustrate their lack of understanding of, and confidence in, the methods of evaluation and the decision making process of the N.C.A.

This lack of confidence in the N.C.A. would explain another inconsistency in the data regarding the candidates' view of the N.C.A. practice on changing course requirements. Dennis commented that changing courses was "the easiest thing" he had done in the accreditation process. He suggested that this meant there was no underlying reason for assigning him the original course he sought to change. This led him to question the N.C.A. 's initial retraining decisions. By contrast, Charles described his attempts to get an N.C.A. assigned course changed because he felt was irrelevant to his career. He says he was met with resistance and inflexibility at the N.C.A. This experience led Charles to also question the N.C.A. decision making process since they rigidly assigned course work which he found of little value. Although each of these candidate had opposite experiences with the N.C.A. on this issue, they both ended up questioning the credibility of the N.C.A.'s decisions.

The research showed a pattern in the evaluation of foreign credentials in the accreditation process. The data revealed that the credentials most similar to Canadian training, for example American legal studies, were most valued in the process. This was apparent in the candidates' characterizations of how the credentials were valued by the N.C.A. and in the descriptions from the participants of the administrators' attitudes towards their credentials and degrees. Ironically, the Canadian candidates with American and British degrees whose training was most valued by the process, were, nevertheless,
the most vocal about the unwarranted superiority demonstrated by the Canadian education system. However, these same candidates revealed their own attitudes of superiority when they referred to law degrees from other parts of the world asserting that retraining would be necessary for foreign trained lawyers from other countries other than Britain and the United States. This data hinted that attitudes of cultural superiority are present in many locations in the accreditation process.

One explanation of data on the valuation of credentials may be that value is given by the legal profession to credentials from legal and education systems that are similar to Canada's on the basis of that similarity, particularly similarity in the procedural and substantive content of the law of the foreign jurisdiction. As a result less retraining would be required to establish equivalency of the foreign training from a similar legal jurisdiction to Canada. Thus, candidates with American and British legal training are given fewer retraining requirements in the accreditation process because of the degree of similarity of these systems of law and legal education with the Canadian system, and not because they are regarded as inherently more valuable than other foreign legal training. It could be argued that foreign legal training and skills are less transferable because they are linked to a particular set of laws and a judicial system of a jurisdiction. Essentially a large portion of legal training is jurisdiction specific and reflects its own legal system. This affects the extent to which the skills can be used in the legal profession of another jurisdiction and it makes some legal retraining necessary upon entering any new jurisdiction. The question of mobility of legal professionals is not confined to the area of foreign lawyers. Within Canada lawyers must satisfy retraining requirements in order to become admitted to provincial Bars and licensed to practise law in different provinces. An Ontario law license does not automatically entitle an Ontario lawyer to practise law in other provinces. The difficulty with legal accreditation seems to be that, to a greater extent than other
disciplines such as science and medicine, the content of legal training and legal principles are not universal. Consequently, it could be argued that legal training is less transferable.

This research shows that the candidates supported the need for a system to ensure competency but they did not believe that the N.C.A. retraining program was accomplishing that objective. Moreover they questioned whether the accreditation program was the appropriate means to achieve that goal especially since the Law Society's Bar Admission Courses regulates standard of competency for entry into the profession. In effect the N.C.A. candidate is required to go through an additional screening process because their foreign qualifications are not considered equivalent. The candidates in this study took exception to the workings of the present system. The candidates felt that they have transferable skills that are negated or ignored in the accreditation process. All of the candidates felt that they could have demonstrated their equivalency to the Canadian L.L.B. at the Bar Admission Course without the need of further law school. However, under the present system equivalency must be demonstrated prior to, and as a condition of, entry into the B.A.C. Therefore, the foreign trained lawyers could not gain entry into the B.A.C. to demonstrate their level of competency without the Canadian L.L.B. or its deemed equivalent by way of the "Certificate of Qualification". Irene maintained that further law school was not necessary to maintain ethical standards within the profession. She comments,

I don't think the ethics are going to change for a lawyer wherever you are. So in that sense I think we could have gone into Phase One [of the B.A.C.]. If you're not going to be knowledgeable, if you're not going to read up on Canadian Constitutional law or if you are going to do this one thing and you're not going to do your research then what are you doing in law! I mean when I was going through law school they said "We're not going to teach
you all of law- we can't. What we are going to teach you is how to research so when you do get a problem you can work on it." I don't understand why we have to go to school here. I mean if we have gone through an American school we've passed, we've got a J.D. so we technically have the mindset that should be we are able to research anything you give to us, no matter what, and we'll give you an argument. So in that sense I think we could have gone to work right from here.

This study suggests that the recognition of foreign credentials and the ability to transfer foreign legal skills continues to be a problem even after entry into the accreditation program. The data in this research showed the difficulties involved in transferring foreign skills and education into the Ontario legal community, and it pointed to the perception held in the accreditation process that foreign training was inferior to Canadian training and needed upgrading to be deemed equivalent. International experience and foreign education continues to be perceived by the candidates as minimally credited in the evaluation process, and subsequently a disadvantage throughout the accreditation process. In this area Betty calls for a "mutual respect for each other...a respect for the judgements of other countries. mutual respect for the education of other countries."

The findings in this study are consistent with the literature reviewed on the recognition of foreign credentials as a barrier to accreditation, the relationship between labour market participation and the recognition of foreign credentials, and the favouring of degrees from certain countries namely the U.S. and the U.K. in the accreditation process. It is also consistent with the literature on the different market value of Canadian and non Canadian education and experience (e.g. Sloan and Vaillancourt, 1994). The data in this study is relevant to the discussion in the literature reviewed which attributes devaluation of
foreign credentials to prejudice, ignorance of their true value, and the possibility of their lower usefulness in the Canadian context (Sloan & Vaillancourt, 1994).

5.28 Language and Licensing Testing

The literature reviewed found language and licensing testing a powerful barrier to accreditation. A finding in this study that runs counter to that literature is the participants' view that language was "not a problem". Similarly the participants' attitudes towards the legal licensing process at the B.A.C. was very positive. They acknowledged it would be "tough" but were eager to get to that stage. The study shows that the participants' experience with the legal licensing body, the Law Society, was mixed. The Law Society was described alternately as helpful, flexible and accommodating, but also as disorganized and remiss in providing information and guidance to the candidates. Betty's experience is the most positive on this point. The Law Society not only reduced the length of her articles from 12 months to 4 months on account of her foreign legal experience; it also waived one phase of the B.A.C. licensing process for her and juggled the two remaining phases to accommodate her.

An alternative explanation to these findings might be considered in the context of the participants' experience. All of the participants spoke English as their first language and/or had been educated in English. Language, therefore would not be a barrier to them. The absence of candidates untrained in English in the accreditation program may corroborate the language hypothesis in the literature reviewed. Furthermore, the participants' views of the licensing process at the Law Society might be premature given that they had not yet formally entered the licensing program at the B.A.C. and they had no experience with the actual licensing exams. Therefore, the findings in this area must be clarified and limited to the scope of the participants' experience.
5.3 Choice, Visibility and Voice

The data in this research showed that the N.C.A. candidates are aware of their position in the legal accreditation process and the powerlessness of it. The participants in this study observed that they do not have a voice in the process of their retraining. Moreover, the conditions are so difficult that they are simply concerned with getting through the process. The participants emphasized that they did not want to incur further difficulties or to attract attention to their N.C.A status. The participants in this study described the costs and hardship associated with many aspects of the accreditation process as effectively limiting their choice of retraining options, the retraining locations, and course requirements. They described being caught between N.C.A. recommendations and law school administrative policies which were simply imposed on them. The research also suggested that the lack of monitoring by the N.C.A. during the retraining and the lack of recognition by the law schools of the candidates upon completion of the retraining rendered them invisible. One student observed of the law schools that,

They know you are here for a year and they call it, you get an equivalent status with your L.L.B. from back home but I think they should give us some sort of recognition. I mean it's as if we've never been here at all. I wouldn't mind a certificate of equivalency from the law school just to show that we've been here, but I guess all we get is a letter of grades, transcripts, but otherwise we could have studied at anywhere.

5.4 Protectionism and Access to the Profession

The data collected in this study suggests that professional protectionism is operating in the legal world of accreditation. This is evident in the attitudes that value conforming to the industry norm which have the effect, if not the purpose, of excluding the foreign-trained lawyer who is different. The data also shows a strong assimilating
tendency in the N.C.A. candidates. In order to get into the profession an individual must resemble the industry norm. While maintaining their diversity the candidates repeatedly characterized themselves as "on par" with the regular L.L.B. candidates and emphasized that they were "just the same" as L.L.B. candidates in terms of their credentials and their retraining. Ellen commented she just wanted to go into the profession's articling process the regular way "with the crowd" reflecting her concern about assimilating with the student population.

The data in this study suggests that retraining operates as a barrier to entry into the profession. High costs, scheduling constraints, the limited availability of retraining opportunities, lack of support and information contribute to the increased hardship of the retraining program which adversely affects the participants in this study and threatens their proceeding through the program. The conditions of retraining negatively impact on the N.C.A. candidates' learning opportunities, experiences, competitiveness in the job market and ultimate integration into the profession. These findings are consistent with the literature reviewed specifically Abella's Report to the Commission on Equality in Employment (1984) which discusses barriers to employment for professional immigrants and attributes difficulties associated with retraining to professional protectionism over the quality of qualifications. In so doing Abella rejects the contention that the hardship experienced in the professional accreditation process is the result of the incompetency of foreign-trained professionals. The literature reviewed suggests that some in the legal profession justify the present system of accreditation by referring to the need to ensure competency. They account for the difficulties of foreign trained lawyers in the system by questioning their competency and credentials (MacKenzie, 1996). Abella (1984) suggests that many professional associations are not equipped to perform assessments on foreign credentials because of lack of information. Consequently, credentials are discounted and candidates don't get into the accreditation process and, thus, the profession.
This research project suggests that a similar dynamic is occurring within the accreditation process despite the fact the participants have ostensibly received some recognition of their credentials as evidenced by their place in the accreditation program. This study suggests that the recognition of credentials in the legal accreditation process carried with it a negative status for the participants in this study. Recognition of credentials in the legal accreditation program required the participants to undergo a rigorous and defeating retraining process which set them apart from the regular L.L.B. students as they attempted to enter the licensing process.

Even though the accreditation program is supposed to give advanced standing to foreign-trained lawyers in recognition of their experience more than one candidate observed that it would have been simpler and faster to access the profession if they had not applied for accreditation and recognition of their previous legal training, but just started the Canadian L.L.B. from the beginning. Dennis states,

So if you know ahead of time don't bother going to a school elsewhere, come here, and do three years of school here. It's just easier; basically my degree or a degree from anywhere else, doesn't help you, doesn't help you in terms of this process...but it makes sense, I'd apply to law school and start all over again, and graduate top in your class, and you would have your pick of jobs.

Similarly, Charles regrets his decision to return to his homeland where he obtained his L.L.B. after obtaining his undergraduate degree in Toronto. He observes,

I think I made a real mistake. What I should have done was actually go to law school when I was in under grad, like just made the transition to law from undergraduates studies to law here, rather than doing this round about
way of doing it... going back and getting a law degree there, .. with hindsight I wouldn't have done it the way I have done it...making the detour out, which I don't think is the right kind of behaviour to be fostering, because surely the kind of behaviour a university and a profession should be fostering is risk-taking and exposure to more, different jurisdictions. It doesn't foster that kind of behaviour, it penalizes you for having done so.

Frank and Dennis both commented that if they had any other skills or training which they could have pursued in Canada they would have abandoned the legal accreditation process because of the difficulty. However, they maintained they had no other options and their survival in Canada depended on completing the process. The data in this research shows that the retraining process involved in becoming accredited discourages foreign trained lawyers in their efforts to become licensed in the profession. The conditions of the retraining created by the policies taken towards the N.C.A. candidates led the candidates to characterize the accreditation process as regulatory; it controls access to the profession for foreign trained lawyers rather than facilitates it. The combination of the conditions of retraining together with the attitudes and perceptions towards their foreign credentials made for what one candidate called "an exclusionary experience".

This research raises questions about the nature of access to the profession for foreign-trained lawyers and the effectiveness of the N.C.A. program in providing a route of access to foreign-trained lawyers. The data in this research indicates that access to the accreditation program for the participants in this study did not translate into inclusion into the legal community because their status as N.C.A. students hindered their efforts to become licensed in the profession. Moreover, the retraining was fraught with difficulties and imposed unreasonable constraints on the candidates. This negatively influenced their
social and economic integration into the community. The participants of this study felt at a disadvantage in seeking entry into the profession by virtue of their participation in the N.C.A. program suggesting that access to accreditation made access to the licensing program more difficult, hindering and delaying the participants in their efforts to become practising lawyers in Canada. The N.C.A. retraining program has been rationalized as necessary to integrate the foreign-trained lawyer into the culture of Canadian law (MacKenzie, 1996). But the findings of this study indicate that retraining at the law school is accomplishing the opposite. This research reveals the inherent contradiction of a route of access into the legal profession which itself generates exclusion.

The experience of the candidates in this study runs counter to the goals of the legal accreditation process which have been described as a means to provide access to the legal profession to certain groups that have been excluded in the past, to promote diversity in the profession and to maintain a high standard of competence and ethics among lawyers admitted to the practise of law in Canada (MacKenzie, 1996). The N.C.A.'s function is to assess the credentials of foreign trained lawyers and recommend requirements for their equivalency to a Canadian L.L.B.. The data in this study suggests that the present functioning of the N.C.A. program is undermining its goals; in attempting to assess credentials and establish equivalency the N.C.A. program is hindering access to the profession, and penalizing diversity. Moreover, it is unclear to the participants in this study if the N.C.A. is an effective way to control competency which is done through the licensing process of the B.A.C. by the Law Society.

5.5 Equality, Participation and Human Rights

The findings of this study suggest that the candidates' difficult experience in the legal accreditation program does not integrate the candidates into the Canadian legal community. This study shows the candidates' disillusionment with the process. They
describe being penalized, discriminated against and demeaned in the accreditation program. The candidates' experience in the accreditation program not only affects their legal training but ultimately their relationship with the larger Canadian society. In particular newcomers to Canada who are attempting to establish their membership in the community through their chosen profession become discouraged and frustrated with the conditions of retraining and negative attitudes towards their foreign credentials to which they are subjected. Their experience of exclusion affects their motivation and ability to compete in the fierce legal job market jeopardizing their survival in Canada. This affects their participation in the legal community, the profession, and ultimately affects their ability to participate in and contribute to Canadian society. These findings suggest that the workings of the accreditation program challenge the principles of equality, full participation in society, and respect for diversity protected by the Canadian Charter of Rights, and enshrined in Canadian multicultural policy.

Betty powerfully captures the impact of the accreditation program on her experience of integration into the law community, and into the larger Canadian society, as piercing the heart of Canadian multiculturalism. She cries that she was misled by the ideals that Canada "projects to the world". While "the common man, the man on the street" lives up to her expectation, the larger society has failed her. Of Canada she expected,

Acceptance, not only acceptance, fairness, in dealing with people, because, as, as my kids say, "This is a mosaic", right? It's unlike America where you have to forget your culture and you just blend in the melting pot...Here you can remain a distinct individual, as well as be a contributing member of the community. But I was hoping I would...And you know, I feel pain, why? because it threw me on the social security system, [sobbing] because by then
I had exhausted 35, thirty thousand savings, because I'm supporting two children, also. So I had no option, ...This is what demeans me, you know?...I hated that...in our society like, or at least the community from where I come, businessmen and professionals. It is unheard of, it's not something you shout from the rooftops...But because of all these things had such a cascading effect on my life...I didn't expect this to happen to me.

Betty's angst speaks of the participants' experience of economic and social dislocation associated with their participation in the accreditation program. This dislocation undermines the objectives of federal immigration and settlement policy which relies upon the ability of immigrants to contribute to the economy the training and skills which they brought into Canada.

The principles of multiculturalism have increasingly been expressed in terms of human and civil rights. The literature reviewed shows that attempts to seek recourse to human rights legislation including the Charter of Rights and Freedoms have failed in the area of professional accreditation (McDade, 1988, Cumming, 1989). Recently the Law Society has also introduced a new Rule of Professional Conduct, Rule 28, which prohibits lawyers from discriminating against individuals on the basis of race, ancestry, place of origin, colour, ethnic origin, gender or age. It is unclear whether cases have been brought before the Law Society under this rule. Previous analyses have suggested that non-accreditation due to lack of recognition of foreign credentials is discrimination on the basis of place of origin (Cummins, 1989, Mata, 1994, McDade, 1988). However, challenges to professional accreditation program under the present provincial and federal human rights legislation have difficulty proving discrimination on the basis of place of origin, as opposed to place of education, which is not included in the legislation as a prohibited ground of discrimination. Moreover, where discrimination is proved, self-governing professional
associations can defend their programs on the basis of their professional autonomy and their legislative duty to protect the public and ensure a standard of competency and professional practice.

A similar difficulty arises within this study in attempting to apply a human rights analysis to the data. In this study the candidates were not kept out of the accreditation program because of their place of origin, but rather were admitted to the program on the basis of their foreign credentials and on the basis of their place of education. Their differential treatment in the program and onerous retraining conditions can be attributed to their place of education and not their place of origin. Thus, it escapes the purview of the legislation. For the immigrants in the program their differential treatment can be connected to their place of origin because they were educated in their place of origin and therefore they could argue, by extension, that their treatment is prohibited under the various legislation. However, proving discrimination in this area is extremely difficult. Moreover, the Canadians in the program can not argue they are discriminated against on the basis of place of origin when they come from Canada. Their presence in the program and the similarity of their treatment to that of the immigrant candidates suggests that Canadians and non-Canadians are treated equally in the process and place of origin is irrelevant to the experience.

Clearly missing in the legislation is an additional prohibited ground of discrimination, namely, on the basis of place of education, which would capture the circumstances of accreditation. The literature reviewed calls for such an addition to the legislation (Cumming, 1989). The findings in this study speak to the need for such an amendment to the legislation to better respond to the needs of foreign-trained lawyers. Furthermore, the findings in this study calls for the Law Society, as a self-governing profession, to examine the legal accreditation process. Even if the activities of the
accreditation program do not technically come within the application of the human rights legislation, the struggles of the foreign-trained lawyers in this study raise questions about the efficacy and fundamental fairness of the legal accreditation process. It warrants a review by the governing body of the profession which regulates not only the standard of competency but the standard of ethical professional conduct within the profession. It must measure its own programs by the same standards applied to the membership.

5.6 Professional Self Governance

The findings in this research challenge the Law Society's public accountability that is attendant with the right to self governance. The Law Society has an obligation to protect the public by ensuring a high standard of competence and professional conduct. It must do so while upholding the independence, integrity and honour of the legal profession and for the purposes of advancing the cause of justice and the rule of law as outlined in the Law Society of Upper Canada's Role Statement (Benchers Bulletin, 1996). In accomplishing this task the Law Society must consider the individual rights to equality of opportunity and equal treatment without discrimination and full participation in society protected by the rule of law in Canada (Benchers Bulletin, 1996). This study raises questions about the accreditation process, its functioning, and its goals. The data suggests that the program's functioning undermines the cause of justice and the rule of law. The data in this study reveals that the accreditation process undermines the objectives of Canadian multicultural legislation, immigration policy, the Charter of Rights and Freedoms, and the Rules of Professional Conduct by penalizing diversity. In so doing it compromises the obligations of a self-governing profession as defined by the Law Society of Upper Canada's Role Statement (Benchers Bulletin, 1996). The literature reviewed suggests that duties and responsibilities associated with professional autonomy and self governance have been raised in the past to defeat efforts to address the plight of foreign-trained immigrants in the accreditation process (McDade, 1988, Cumming, 1989,
MacKenzie, 1996). The findings in this study appeal to the duties and responsibilities associated with professional self governance to improve the conditions of legal accreditation for foreign-trained lawyers.
CHAPTER SIX
CONCLUSION

6.1 Introduction

This study examined the experience of foreign-trained immigrants in the legal accreditation program in Toronto, and documented the factors that affected their integration into the Canadian culture of law. Its findings are limited to this context. The findings of this study are tentative and must be interpreted within the context of this project's objectives. The findings are limited to the sample of participants and their retraining experiences in the legal accreditation program. The characteristics of this group and the personal circumstances of the individuals must be considered when interpreting the data. First, it must be noted that the sample in this research was taken from two law schools in Metropolitan Toronto and it does not purport to be indicative of the experiences of N.C.A. candidates at all six law schools in Ontario. Secondly, six of the participants in the study came from one law school and eight of the participants came from the other law school. While the total number of participants in the study, including the additional participants used as a members check on the data, approached 50 % of the total number of N.C.A. candidates in the two schools at the time of the data collection, they do not represent all the candidates' experiences in the program. Furthermore, efforts were made to get a range of experience and backgrounds among the participants who volunteered for the study. This study captures experiences from foreign trained lawyers from South Asia, Britain, the United States, and Canada. However, there are many other experiences of foreign-trained lawyers from other parts of the world that are not part of this study.
6.2 Further Inquiries

The focus of this study was to understand the candidates' experiences in the legal accreditation program. In order to further an understanding of the candidates' experiences in the program the scope of inquiry must be expanded to include more N.C.A. candidates, past and present, and to include N.C.A. candidates at different stages of the licensing process. A broader sample of candidates could investigate a wider range of experience in the program including candidates in other Ontario law schools, candidates from a greater variety of countries especially non common law jurisdictions, and candidates from countries that are not English speaking or whose experience with English is limited. Further inquiry could also consider the experience of N.C.A. candidates that were given the challenge exam option in order to study in depth the conditions specifically associated with the challenge exams. Furthermore, the immigrant participants in this study were primarily sponsored spouses. Although the study hints at the greater difficulty of the independent class immigrants' experience in the program, a specific study could be done on independent class immigrants in the program to determine what their experience is in light of the federal immigration policy.

This study suggests that access to the law profession for the N.C.A. candidate is adversely affected because the candidates are hindered in the process of accreditation and licensing which is made difficult for them. The study was not designed to examine the nature or extent of access to the profession, but questions about this issue emerge from the data and call for further investigation. In particular further inquiry into the actual labour market participation of foreign-trained lawyers in the legal profession in Ontario and the patterns of participation of foreign-trained lawyers in the legal profession would yield a profile of the profession. Specifically, the occupational status of foreign trained lawyers, both those who successfully complete the accreditation and licensing process and those that don't complete the process, would reveal information on the relationship
between the N.C.A status and employment. This type of inquiry would require a longitudinal study tracking lawyers in the accreditation program and into the profession.

The experience of Canadian and immigrant candidates were studied together in this research. A further line of inquiry could investigate the experiences of Canadian and immigrant candidates separately in order to better understand the patterns in the experiences specific to each group. The literature reviewed discusses accreditation in the context of immigration policy (e.g. McDade, 1988). The Canadians in the legal accreditation program alter and expand that analysis. An investigation concerning the Canadians in the program, their reasons for being there, their overall numbers in the program as compared to the number of immigrants in the program, are further lines of inquiry that may assist in profiling the individuals who make it into the program. This would inform the accreditation discussion and the issues surrounding the struggles of immigrants not only in the program but those who are trying to get into the program.

Another line of inquiry suggested by this research but outside the scope of this study is the examination of the effect of the conditions of retraining - including lack of support, services, and information - on the completion and success rate of the candidates in the program. This study was able to identify factors that affected the candidates' experience and integration into the legal culture but it did not ascertain if these factors contributed to the candidates' success rate in the program.

An inquiry into the legal industry's knowledge of the accreditation program and the extent of their understanding of foreign credentials is necessary because the data on the knowledge of the industry in this research arose from the participants' impressions of the firms' knowledge of their credentials based on their experience interviewing at the firms. Data is needed on the legal industry's actual knowledge of foreign credentials. Further, the
experience of the firms with the N.C.A. and the N.C.A. candidates would provide an interesting perspective on some of the competency issues raised in this study. A study focusing on the industry could also render information on whether degrees from certain countries were favoured over others.

The issue of language as a barrier to accreditation and as a problem in the accreditation process is raised in the literature reviewed. Some law school administrators believe that candidates' difficulty with the legal accreditation program is due to poor communication skills in English (MacKenzie, 1996). Language was not an issue in this study because each of the candidates who participated was English speaking. However, further inquiry into the nature and extent of the language barrier in the legal accreditation program must be investigated. A determination of the actual numbers of non-English speaking candidates in the program would be useful and an examination of the evaluation process for language skills would provide insight into the nature and extent of the language problem in the accreditation program.

6.3 Implications

In this research project the patterns reflected in the participants' experiences of legal accreditation suggest that their social and economic integration into the legal community was undermined by the administration and implementation of the program through the conditions of retraining and the attitudes taken towards the candidates and their foreign credentials. A pattern of exclusion runs through the experiences of the participants in this study. The study strongly suggests that barriers to accreditation do not disappear upon entry into the legal accreditation program, but persist throughout the accreditation process.
The research project revealed that many factors inherent in the workings of the N.C.A. program undermined the participants' integration into the Canadian legal community including: lack of information in the legal profession about the foreign credentials of the candidates; administrative policies that served to differentiate instead of integrate the candidates; devaluing of foreign credentials held by the participants throughout the process; a retraining program structured to preclude equivalency; and, a lack of support for the participants that increased the hardship of the already onerous conditions of the program. A pattern emerged from the participants in this study which showed that in the present system of accreditation the candidates have difficulty transferring their skill, experience and education from abroad, and contributing them to the Canadian legal community. Although the legal accreditation process is supposed to provide a route of access, promote diversity and ensure competence, this study found that it discourages foreign-trained lawyers from accessing the profession, penalizes diversity and for the candidates in this study it was not an appropriate, or particularly effective method of regulating competence in the profession.

The findings in this study extend our understanding of the legal accreditation process and provide a glimpse inside the program. They also speak to a need for the Law Society of Upper Canada to thoroughly consider the nature and operation of the N.C.A. program from the perspective of the candidates in the program. The requirement of additional legal training at law school has been reasoned as a means of socializing and integrating foreign trained lawyers into the culture or ethos of Canadian law (MacKenzie, 1996); however, this study suggests that the experience of the N.C.A. program is exclusionary.

The findings of this study have implications for the legal community. For the participants in this study access to the accreditation program did not translate into
inclusion into the legal community because of their status as N.C.A. students. This research reveals the inherent contradiction of a route of access into the legal profession which itself generates exclusion. Moreover, these findings suggest that the workings of the legal accreditation program challenge the principles of equality and full participation in society protected in the Canadian Charter of Rights, and enshrined in Canadian multicultural policy. The findings in this study appeal to the legal profession's self governing obligations and rules of ethical professional conduct for a careful consideration of the treatment of diversity within the profession.

Finally, the legal profession in Ontario must consider its response to the international movement of legal professionals as they seek to practise law in this jurisdiction. The diversity of the foreign trained lawyer reflects the ever increasing diversity of the community which the legal profession serves and to which the legal profession is accountable. The foreign trained lawyer not only brings invaluable assets to the profession of law but represents the key to the future practise of law in a global economy which emphasizes the removal of barriers and the freedom of movement of people and services. The legal profession must reconsider the accreditation program to bring it in line with, not only Canadian principles of justice and professional legal standards, but with the direction of the changing professional practise of law.
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