THE RIGHT TO KNOW: Women, Ethnicity, Violence and Learning about the Law

by

Susan Elizabeth McDonald

A thesis submitted in conformity with the requirements for the Degree of Doctor of Philosophy Department of Adult Education, Community Development and Counselling Psychology Ontario Institute for Studies in Education of the University of Toronto

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Abstract

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This study has examined the use of education and learning strategies in the delivery of legal services for Spanish speaking immigrant women who have experienced domestic abuse. The study reviews literature on immigrant women, domestic abuse, and poverty law, specifically focusing on the dynamics of power and control in the lawyer/client relationship. The study used feminist participatory research working in partnership with the Women’s Program of the Centre for Spanish Speaking Peoples in Toronto, Canada. The specific goals of the study were: 1) to identify the legal education and information needs of Spanish-speaking immigrant women who have experienced domestic violence; and 2) to determine how best to address these needs with consideration for particular factors which could impede learning: the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma on learning.

The results show that most of the women learned very little through their legal situations, but that they believe legal information and legal education, that incorporates their experiences, are essential. The women clearly articulated their learning needs. The
results of the research are now being used in the second phase of the project to develop and implement a program to address the women’s needs.

In memory of my father,
and to my mother,
who taught me the importance of learning.

And to the women.
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Chapter 1

Introductions

*Para saber sobre leyes y derechos*
*nos hemos reunido*
*porque justicia queremos*
*y es todo lo que pedimos.*

*Chiquillas quiero que sepan*
*que estar con Uds. ha sido muy grato*
*porque paso malos tratos*
*y ya no aguanto por más que trato.*

*Supieron que es terrible mi situación*
*y quiero seguir compartiendo con Uds.*
*por eso les pido que me ayuden*
a buscar una pronta solución.

*Aqui lo que sabemos lo expresamos*
y lo que no, de las demás lo escuchamos*
*porque para saber y conocer*
*hay que escuchar experiencias de una mujer.*

*(To understand laws and rights)*
*we have met together*
*because it is justice we want*
*and that is all we ask.*

*Women I want you to know*
*that being with you has been very nice*
*because I’ve experienced bad things*
*and I can no longer stand it as much as I try.*

*You will know that my situation is terrible*
*and I want to continue sharing with you*
*for this I’m asking that you help me*
to find a fast solution.

*Here what we know we express*
*and what we don’t, the others express*
because to understand and to know
*you must listen to the experiences of a woman.*

Ana Ugalde Farias, mujer jefa de hogar, San Antonio, Chile, 1993
The above poem reflects the spirit of this dissertation on many levels: the challenges, the connection between emotion and reason, the pain, but also the strength of the women who have participated. This dissertation, while marking an important contribution to my work in the area of poverty law and learning, is only a beginning.

Poverty law, which is the body of law, theory, and practices in areas that impact low-income and otherwise disadvantaged individuals, has developed significantly over the past three decades. In more recent years, funders are recognizing that “…the demand for legal information is profound.” (McCamus 1997, 55) This recognition is hardly new to the lawyers, community workers and others who are dedicated to the delivery of legal services to those who are disadvantaged in our society.

This feminist participatory research project is rooted in years of professional work and personal experiences. As I noted, the project and this dissertation does not represent a culmination of study, work, and reflection, but rather represents another mode of learning for myself and for others interested in this work. I began work with the Centre for Spanish Speaking Peoples, a multi-service community organization in Toronto, when I was in high school. In the early and mid-nineties, I worked there again as a law student and as a Board member. It was during this time that I became acutely aware of the overwhelming needs of the women who were clients of the Women’s Program and how inadequate were the legal services funded by the (then) Ontario Legal Aid Plan.

My work experiences in Chile and other Latin American countries helped to expand my understanding of feminist and Freirean pedagogies and the possibilities for alternative approaches to the delivery of legal services. I learned about violence against women and the dynamics of power and control that are inherent in all abusive
relationships. At the same time, through personal experiences, I developed a stronger understanding of the impact of trauma and other factors that impede and enhance learning and experiencing life as an active, rather than a passive participant. In 1997, I researched and wrote my Masters thesis on public legal education in the Ontario legal clinics. This process and the results laid the foundation for further study. These experiences and ideas merge in this study.

**Purpose and Background to the Study**

The purpose of this study is to explore the use of pedagogically appropriate adult education and learning strategies in the delivery of legal services for Spanish speaking immigrant women who have experienced domestic abuse. The study will focus on their learning strategies. The research methodology chosen, feminist participatory research, is important to facilitate the women’s participation and their own learning in the development of learning strategies to address their needs. The context for this study is the Canadian legal system and as such, it is necessary to examine the delivery of legal services for these women and the context of poverty law. The study begins from the premise that learning, through pedagogically appropriate learning strategies, has largely been absent in both the theory and practice of poverty in Ontario, in Canada, and in other developed countries.

Public legal education, which is the term used in the literature, is education for the general public about the law, as opposed to education for law students, lawyers, or others in the profession. In general, the goal of public legal education initiatives in Canada is to inform people of their rights and responsibilities, as well as to improve the efficiency and
efficacy of the legal system (Beaufoy 1999). The law affects everyone and having a more informed public creates greater fairness and accessibility overall. Few would suggest that public legal education is unnecessary.

Public legal education practices and programs vary widely across the country. They receive some funding from the federal Department of Justice, some from provincial governments and some from a variety of sources. In Ontario, most initiatives have come from the legal clinics, Community Legal Education Ontario in particular, unions, and the Law Society of Upper Canada.

I believe that public legal education for all Canadians is important. This study has explored the use of education with a particular group, Spanish speaking immigrant women who have experienced domestic abuse. These women, because of their social location (ethnicity, gender, language, immigration status, and experiences of abuse), must be recognized as part of a disadvantaged group.

In Ontario in the early years of this century, legal assistance to those who could not afford to pay, depended upon the charity of lawyers to provide their services. Following developments in England and several studies here, the *Legal Aid Act, 1967*, R.S.O. 1967, c.80, was passed and transformed legal aid in Ontario from a system dependent upon charity to a publicly funded right. The legislation created the Ontario Legal Aid Plan under which lawyers would be paid by a tariff that would be administered by the Law Society of Upper Canada and funded by the provincial government. This is known as the judicare or certificate model.

The inadequacies of the judicare model of the Ontario Legal Aid Plan became apparent as the underlying assumptions inherent in this model were proven far from
accurate. It had been assumed that the problems of disadvantaged groups and individuals were similar to those of the middle and upper classes. As such, the resolution of these problems would also be through similar means. The problems of disadvantaged groups and individuals, however, are the product of their daily oppression (Wexler 1970, Lopez 1992).

Recognizing this, the judicare model, based on fee for service, was clearly inappropriate. It allowed for formal equality, but the goal of substantive equality remained elusive. Focus shifted from “equality of access” to “equality of outcome and benefit”; it would be necessary to deal with the legal problems of disadvantaged groups on a more structural basis. Such thinking led to the development of legal clinics in Ontario, which marked a dramatic shift in thinking and furthered the development of poverty law as a distinct area of theory and practice.

Poverty law recognizes that a traditional model of legal services, a case-by-case approach using legal remedies such as litigation, is not adequate to address the needs of the disadvantaged (Wexler 1970). The Ontario legal clinics, now numbering 70 and serving 100 communities across the province, provide legal services for low-income clients. The clinics focus on the needs of their low-income communities, the need to involve the community in decisions, and outreach work such as public legal education, community development and law reform to address the causes of poverty, not only the symptoms.

The Centre for Spanish Speaking Peoples in Toronto is a multi-service, community-based organization and receives funding from all levels of government and other sources. It has a legal clinic which offers some legal services to the low-income
Spanish speaking population in the area. The Women’s Program is an integral part of the Centre. It provides information, support, and counselling to women who have experienced domestic abuse and is staffed by three counsellors. The Legal Clinic has never been funded to provide any family or criminal law services and despite changes in the legal aid system, this situation remains the same.

The *Legal Aid Services Act*, R.S.O. 1998, c. 26, was passed in the Ontario legislature on December 14, 1998, creating an independent corporation called “Legal Aid Ontario” as of April 1, 1999. The Act recognizes that the private bar is the foundation for providing legal aid services in the areas of criminal and family law. The Act defines “clinic law” as areas of law which particularly affect low-income individuals or disadvantaged communities, including legal matters related to: housing, shelter, income maintenance, social assistance, human rights, health, employment and education. Importantly, section 14 of the act stipulates that the corporation provide legal aid services by any method it considers appropriate, including public legal education (s.14(1)(h)). How this section will be interpreted remains to be seen.

The women who are clients of the Women’s Program most often need legal services in the area of family law. As such, they must seek a legal aid certificate and a private bar lawyer to represent them. The counsellors of Women’s Program are at times overwhelmed by the legal needs of their clients, for which they have no specific training.

In most poverty law literature, the role of education, while at times acknowledged (Lopez 1992; Eagly 1998; Gordon 1995; Brustin 1993), is overshadowed by the use of traditional legal strategies. The body of literature on legal education focuses on education...
for law students and for lawyers. In my Masters thesis, I discuss reasons for this absence of the role of education and the focus on legal mechanisms (McDonald 1998a).

The legal training that law students receive in law school and as young lawyers in private or public practice approaches problems in exclusively legal terms, using legal tools. Lawyers, law schools, professional associations, and the public place a heavy, if not complete, reliance upon the traditional legal system. As well, lawyers are taught and trained to take an active, omniscient, leadership role. Further and very simply, lawyers are not trained to be educators. Lawyers are trained in the law in traditional educational institutions, this is what they know. Attempts at legal education by lawyers have a tendency to be content and information focused. And finally, within the profession there is a general reticence to embrace other disciplines. Because of legal training, public image and the profession’s investment in the law, the law is accordingly predominant in lawyers’ initiatives for social justice.

In the late eighties, the “new poverty law scholarship” emerged and focused on the narrative and the lawyer/client relationship (Alfieri 1988, 1991). Critics have argued that this scholarship is limited and must move beyond the local narrative and the local experience (Blasi 1994). The participants in this study, Spanish speaking immigrant women who have experienced domestic abuse, have all lived with varying degrees of power and control in their intimate relationships. The new poverty law scholarship highlights the dynamics of power and control that are also present in lawyer/client and other professional/client relationships (see Alfieri 1988, 1991). Education can play a role to reduce these power imbalances.
The imbalance of power in relationships for these women has had a devastating impact, as is the case for many individuals and groups who have been socially, economically and politically marginalized. As a result, the choice of methodology for this study became very important. A traditional researcher/subject relationship could reinforce this power imbalance and possibly affect the connection and trust required to explore the particular experiences of the women.

Feminist participatory research involves three components: investigation, education, and action (Maguire 1987). Underlying the process is the principle of the sharing of power between researcher and research participants. The participants gain control of decision making and learn what research is all about. This sharing ultimately increases the potential to distribute the benefits of the research. When the objects of research become subjects and partners, they benefit from not only the opportunity to learn about their reality, but also from contributing to and sharing in subsequent policy and program decision making and control.

Having a history of involvement and some understanding of the unaddressed needs of the clients of the Women’s Program, I sought their participation from the beginning stages of my doctoral research. Action and the eventual transfer of the project to the community were important goals to me and to the Women’s Program. Further, feminist participatory research would help facilitate the participation of the women in the design of the project (Maguire 1987). As such, feminist participatory research was chosen as the preferred methodology for the project.

This brief history of legal aid in Ontario, the absence of education in poverty law, the context and chosen methodology provides some background for this study. In the
summer of 1998, I approached the Women's Program to determine if they would be interested in working on a study/project to look at the problem of the women's unaddressed legal needs. They agreed with some reservations and the shared process of defining roles, goals, and the work began.

The Research Problem

The specific goals of the study were: 1) to identify the legal education and information needs of Spanish speaking immigrant women who have experienced domestic abuse; and 2) to determine how best to address these needs with consideration for particular factors which could enhance or impede learning (the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma on learning).

As noted, pedagogically appropriate education and learning strategies have been absent for the most part in the practice and theory of poverty law in Ontario. The specific legal information needs of immigrant women who have experienced domestic abuse have been studied in Canada, but adult learning strategies in this context have not been studied. This study has used a methodology that facilitated the women's participation to learn and understand about their legal information needs and strategies to address those needs.

Feminist participatory research has three components: investigation, education, and action. The investigation aspect of this project achieved the specific goals outlined above and this dissertation reports only on the results of the data collection from the investigation phase. This dissertation will not report on the action that results from this phase and as such, the broader and longer-term goals of feminist participatory research (empowerment of the participants, challenging the state, and social justice) are not
reported upon. This study makes reference to these broader goals, but acknowledges that they have not been achieved. These references remain part of this dissertation because I believe it is important to recognize the potential of feminist participatory research as a means for achieving such goals through participatory learning. The results of the research are now being developed and acted upon.

This study also acknowledges that the critical legal education model and the participants' learning strategies proposed in Chapter 5 are situated within Canada's legal system. This system includes the laws, the process, the players, and the institutions. The study acknowledges the importance our legal system and rights in general, but also suggests that it does not benefit all members of our society equally. In this study, gender, ethnicity, class, and experiences of abuse combine to impact the participants' experiences with the Canadian legal system.

Modern Western law is based upon the principles of classic liberalism: justice, fairness, and individual rights (Rawls 1971). Each individual has the freedom and the right to pursue his/her own interests. As these interests might clash, principles of justice will mediate any competing claims, the pre-eminent one being justice as fairness, which will ensure that competing claims are settled in such a manner as to respect everyone's capacity for choice (Rawls 1971,11). For liberals then, justice is paramount, as is our capacity as individuals to choose. A thorough and rigorous discussion of the liberal legal system is not part of this dissertation.

The aspirations of liberalism, justice and equality, are not always realized, particularly for those disadvantaged by ethnicity, class, gender or other social factors. Certain theories, such as feminist legal theory, have developed to address some of the
inadequacies in this model and one strength of this model is this capacity to accommodate the creation of oppositional theories. The legal system is not static and it can be used for and against social change. In this study, it is viewed as a tool, one instrument, that is normally in the hands of those with power. Using the legal system can have many important benefits for disadvantaged individuals and groups. For example, legal remedies can address real needs and the language can be empowering for those individuals and groups who have never believed they have had a claim to justice. The remedies the legal system offers, however, are limited and many social justice problems cannot be fully addressed solely through the application of the law. In the context of this study, the proposals for alternative approaches to addressing the participants’ needs recognize a role for the Canadian legal system. This study suggests improvements to the legal system and strategies to advance it to better address the needs of individuals and groups who have been previously excluded from the benefits of the system. For Spanish speaking immigrant women who have experienced domestic abuse, such improvements cannot come too soon.

Rationale for the Study

This study is timely and significant in many ways. The McCamus Report (1997) and the resulting Legal Aid Services Act have produced changes to the legal aid system in Ontario. Legal Aid Ontario is to identify, assess and recognize the diverse legal needs of low-income individuals and disadvantaged communities in Ontario. As noted, section 14 of the act recognizes public legal education as a distinct delivery model. Thus, there now exists a legislative framework and perhaps some willingness to explore the role of
education in the delivery of legal services. The results of this study can contribute to policy and programs surrounding the use of public legal education in Ontario.

The study will contribute to the literature on public legal education, of which there is little at present. It will also contribute to our understanding of feminist participatory research. As well, the research itself will be used to develop and implement solutions to the women's identified needs. This action aspect of the research is particularly significant and timely for the community. Although it will not be captured in this dissertation, the work will continue and contribute to the work of the Women's Program with Spanish speaking women.

Most importantly, this study focuses on adult learning strategies which have not previously been addressed in the context of poverty law or learning about the law. The methodology provides an important model for developing such strategies. The findings, which are specific to Spanish speaking immigrant women in the Greater Toronto Area, can be used by other communities, particularly women and immigrant women who have experienced domestic abuse. Finally, it is hoped that this research will be useful in strengthening future endeavours in the area of public legal education and will provoke debate and further study in an important, but neglected area.

A Note on Language

This study focuses on the role of education and information in the delivery of legal services. Law is generally considered to be very technical and difficult to read and understand without specific training, whether it is legislation, principles, court decisions or documents. The participants in the study all speak Spanish as a first language and as
such, their access to the law in Canada is limited even more. Academic language is likewise often difficult and technical.

Underlying the two immediate goals of the study, have been the goals of greater participation and increased understanding for the women about their learning strategies. This can only occur when the language used is accessible to the average lay person. As such, I have chosen to write this dissertation in as plain language as possible in order to facilitate access to the ideas contained herein. I have also chosen to write in the first person at times because I was so very much a part of the research process.

Much of the data collection and the planning and development of the project was done in Spanish. I started learning Spanish in high school and continued to learn it through immersion lessons in Guatemala and Costa Rica, through work both in Latin America and Toronto, and through travel during the nineties. I undertook the American Foreign Service Language Test and achieved a high score. While I would not consider myself bilingual, I felt comfortable completing the interviews and workshop in Spanish and working with the Spanish data. As much as possible for this research, I had the interview questions, consent forms, and workshop activities edited by native Spanish speakers. As the women were for the most part not fluent in English, this parallel of language competency was a positive aspect in the researcher/participant relationship.

I have left the women's words in Spanish because those are their words. Translations follow each quotation and these were edited by a native Spanish speaker.
Organization of the Study

This study is divided into six chapters. Chapter 1 serves to introduce the purpose, background, research problem, rationale and organization of the study.

Chapter 2 presents a review of the literature. This chapter is divided into six parts: Part I discusses the abusive relationship; Part II discusses the social construct of the “immigrant woman” with particular attention paid to the immigrant battered woman; Part III reviews the older and new poverty law scholarship focusing on the lawyer/client relationship and the similarities between it and an abusive relationship; Part IV reviews different models of public legal education; Part V presents the context for the study (domestic abuse in Canada, the Centre for Spanish Speaking Peoples), and legal services in Ontario; and finally, Part VI presents barriers to public legal education programs and learning about the law for disadvantaged groups and individuals.

Chapter 3 explains the methodology used in the study. In Part I, the theory of participatory research and feminist participatory research is presented. In Part II, the process of the research is described in detail and Part III presents discussion on the challenges presented by the methodology. Chapter 4 provides greater details of the findings from the interviews and the workshop. Chapter 5 presents discussion and analysis of the study's focus, the women's learning strategies, and proposes a new paradigm for poverty law. The final chapter presents concluding remarks.
Chapter 2

Reviewing the Literature

Women who have been abused by their intimate spouses often come into contact with the law – whether criminal law, family law or issues dealing with housing and social assistance. They have been subjected to varying forms and degrees of power and control, including physical abuse, sexual abuse, emotional and economic abuse. All these dynamics are disempowering and damaging. Within the legal system, these dynamics of power and control are also present, albeit in more subtle forms, as in the lawyer/client relationship. In order for these women to regain a sense of self and to assume a meaningful position in society, it is imperative to break down these dynamics.

The objectives of this study are for Spanish speaking immigrant women in Toronto who have experienced domestic abuse to define their legal education and information needs and to determine how best to address these needs. This study suggests that learning, through critical legal education, has been largely absent in both the theory and practice of poverty law in Ontario and in Canada and the United States.

This review will present support for this suggestion from the literature and illustrate the need for this research and consequent action. In Part I, I will discuss how the tactics of power and control in abusive intimate relationships are used to marginalize and oppress women. In Part II, I will focus on the social construct of the “immigrant woman” and look at the particular needs of immigrant women who have experienced domestic abuse. In Part III, I will present critiques of the lawyer/client relationship in poverty law and suggest similarities between this relationship and the abusive intimate relationship. In Part IV, I will review the work on public legal education in the delivery of legal services,
focusing on three approaches to public legal education. In Part V, I will present a description of the context for this study: statistics on domestic abuse in Canada, the Women’s Program at the Centre for Spanish Speaking Peoples, and the legal services available in Ontario to the participants of this study. In Part VI, I will address the barriers to the successful establishment of such an alternative, including the impact of trauma on learning, funding, and the legal profession.

Part I – The Abusive Relationship

Abuse inflicted upon women by their intimate spouses is pervasive in all societies and Canada is not exempt from this societal ill (see Schuler 1992, United Nations 1993). Despite greater awareness and aggressive criminal intervention (Martin and Mosher 1995) over the past two decades, men continue to abuse their spouses (Rusen 1992). Throughout history, women have been abused by their intimate spouses. Once married, they became the property, nothing more than the chattel, of their husbands (R. v. Lavallé 1990). Such abuse has been condoned and tolerated as a man’s right and as a necessity to discipline an unruly or disrespectful women. Not too long ago, abuse was considered acceptable and even respectable for it would demonstrate a man’s authority and dominance if he could control his wife.

It has only been within the past three decades that this abuse against women has begun to receive the attention and condemnation that it justly deserves. The societal values, however, which have in the past legitimated abuse against women will continue to undermine efforts to confront the abuse, unless they, in conjunction with other contributing factors, are effectively challenged.
These values lie rooted in women’s subordinate position in society, encompassing a myriad of political, economic and cultural factors. In a traditional, feminist heterosexual understanding of domestic violence, violence against women may be viewed as a display of male power and the result of social relations whereby women are kept in a position of inferiority to men, responsible to men and in need of protection by men (Schneider 1992). As such, this social, political and economic dependence of women on men provides an apt framework for violence to flourish (Dobash and Dobash 1980, Yllo and Bograd 1988).

Law professor Schneider (1992) points out that since the beginning of the women’s movement, feminist theory has been based on the particular experiences of women. Feminist theory places women’s experiences as the starting point. She argues, however, that this analysis is not capable of capturing all of women’s experiences. Theory flows from women’s experiences in the world and then theory refines and modifies that experience (Schneider 1992, 521).

For twenty years, advocates for women who have experienced domestic abuse have fought for the acceptance of and recognition of the “Battered Woman’s Syndrome” (Walker 1984). The study of the patterns in abusive relationships led to the Walker Cycle Theory of Violence and an understanding of the resulting psychological effects of the abuse on women, known as the Battered Woman’s Syndrome (Walker 1984). Violence carries on in a three phase cycle: the tension builds with the initial capacity of the woman to control it; later tension escalates to a “rapid chaining of adverse acts” to reach the explosive height; and then there is the contrite period of calm, positive acts and an
absence of tension (Walker 1988, 141). Violence increases in frequency and in severity over time and is greatest at and after separation (Walker 1984, 25-26).

The cycle of violence is now accepted in many different arenas: law, social services, and medicine. Yet there also exists the uneasy realization that the term “battered woman” is reductive and has a restrictive meaning with negative connotations, in that it ignores personal history, reducing the woman to a victim. The theoretical construct has also been built on one concept of power – patriarchy. This construct has been criticized, as has feminism in general, because while we know violence does affect all women, it occurs within a context of race, class and other social characteristics (Crenshaw 1991, 1245-46). The multiple oppressions faced by women of colour, women with disabilities, older women, lesbians, and in this study, immigrant women have not been incorporated into feminist theory on domestic violence. I suggest that feminist definitions are compatible with a more general definition of battering as power and control in intimate relationships generally.

I have chosen to use the phrase “Spanish speaking immigrant women who have experienced domestic abuse” to describe the participants in this study. The choice of language conveys powerful images and I did not want to use reductive and restrictive terms such as “battered immigrant women” or “abused women” (Schneider 1992). The term domestic abuse does not adequately convey the gendered nature of abuse against women and some would argue that it obscures the gender (Kurz 1999). The term suggests that there is abuse by all family members against all family members. Despite this valid criticism, I have continued to use the term primarily because my data revealed that the abuse was not always gendered and I required a descriptive phrase that would
accommodate these findings. Where literature and other reports have used "domestic violence," "wife abuse," "battering" or other terms, I have used these terms so a variety of terms are present in this study.

In this first part, I will examine the power dynamics and tactics of control employed by women's spouses, in order to illustrate the pervasive nature and effects of this abuse which can place abused women in a group that has been oppressed and marginalized. This general discussion of domestic violence will illustrate the need to incorporate other concepts of power. In Part II, I will focus on immigrant women who have experienced domestic abuse and their particular needs. This study will focus on particularity to "acknowledge situatedness and to seek commonality" (Schneider 1992, 528).

One common definition of battering is "the threat or use of physical force to coerce and control" (Russell and Clarkson 1996, 24). This definition ignores the use of other forms of abuse. MacLeod provides a more comprehensive definition which encompasses a range of abuse:

Wife battering is the loss of dignity, control and safety as well as the feeling of powerlessness and entrapment experienced by women who are the direct victims of ongoing or repeated physical, psychological, economic, sexual and/or verbal violence or who are subjected to persistent threats... (1987, 16, emphasis in original)

The abusive spouse asserts his domination through tactics of control that may be explicit or more subtle. The most obvious methods used are the acts of physical violence: hitting, slapping, beating, kicking, using weapons or sexual assault. Other more subtle methods include: economic abuse, psychological abuse, isolation, alienation, guilt, intimidation, threats and abusing children.
When the violent phase of the Cycle of Violence ends, a calm period follows mired by the threat of violence again. Regardless of the actual or objective threat, the threat will be internalized and women will monitor themselves and their own actions. Women generally feel responsible for the acts of abuse; they feel they have provoked their spouse in some way and deserve the abuse that follows. They often appear to be impotent, withdrawn, depressed and insecure (Waldman 1988, 168). They feel that they are constantly being watched by their spouse and as the cycle repeats itself, they are watching themselves as well.

The term “learned helplessness” has been introduced to describe this state of being (Walker 1988). Women may have been socialized to be passive and dependent during their upbringing. Walker has hypothesized that:

. . . childhood experiences of victimization, so common in histories of battered women, in combination with gender socialization into traditional feminine roles, would increase their later vulnerability to learned helplessness in a violent relationship (1988, 44-45).

As well,

A hypersensitivity to violence occurs. . . If actual defense is seen as impossible, then concentration on manipulating the environment to keep as safe as possible sets abused persons apart from others who believe their world is a relatively safe place (Walker 1988, 123).

Feelings of responsibility and guilt are the result of psychological abuse whereby women are belittled, criticized, whipped with words. They have internalized the threats and the abuse to the extent that they no longer need to hear the abuse, but believe it themselves. Freire (1970, 49) notes that:

Self-deprecation is another characteristic of the oppressed which derives from their internalization of the opinion that oppressors hold of them. So often do they hear that they are good for nothing, know nothing and are incapable of learning anything that they are sick, lazy and unproductive – that in the end they become convinced of their own unfitness.
As well, where “the more oppressed can be led to adapt to a situation, the more easily they can be dominated” (Freire 1970, 49). For it has been shown that

Battered people may unwittingly reinforce and increase the pattern of violence by complying with the abuser’s demands. Arin, Holz and Hake (1963) have demonstrated the escalation of violence because of the victim’s tendency to acclimate to punishment (Walker 1988, 141).

Domestic abuse is complex. The reasons men abuse their spouses must be understood within the use of violence in our society in general and within the framework of patriarchy as a system of power and control (Yllo and Bograd 1988). Most importantly, this system enables men to abuse their spouses. There are several factors which are associated with a higher risk of abuse: unemployment, income, age, marital status, presence of emotional abuse, witnessing violence as a child and alcohol/drug abuse (Statistics Canada 1998). Statistics Canada found that the greatest predictors of domestic violence were the young age of the couple, living in a common-law relationship, chronic unemployment for male spouses, witnessing violence as a child (both men and women), and the presence of emotional abuse (1998, 18-24).

Although research is inconclusive, there have been studies which suggest a link between poverty and domestic violence (B.C. Institute for the Prevention of Family Violence 1997, MacLeod 1987). MacLeod (1987, 30) found that:

Of the men who were working for pay, only 4 per cent worked in professional occupations. 10 per cent in white collar jobs, and 27 per cent in skilled blue-collar jobs. Fifty-nine per cent worked in unskilled blue collar or “miscellaneous” jobs.

Nelson (1992) and Dutton (1995) make similar findings. Kurz found that the poorer women in her sample experienced the most violence and the more serious violence than
women in any other income group (1998, 203). According the United States Department of Justice's National Crime Victimization Survey:

Women with an annual family income under $10,000 were more likely to report having experienced violence by an intimate than those with an income of $10,000 or more (1995, 4).

Several other studies have also shown links between violence in women’s lives and low-income levels (Davis and Kraham 1995, McCormack Institute and Center for Survey Research 1997, Raphael 1996). MacLeod (1987, 8) concludes that: “[while] it is known that . . . unemployment or poverty, like other life stresses . . . can precipitate wife battering by lowering inhibitions against it, there is no conclusive evidence that any of these factors cause wife battering.” While abuse cannot be explained solely in terms of poverty, it should not be ignored as an important contributing factor.

The reasons why women do not leave abusive relationships are also complex. There exist many social and economic factors that reinforce reasons for staying in relationships. Culturally, abuse may be expected, accepted and respected within the community. Separation and/or divorce from abusive spouses might result in ostracization and an unbearable stigma attached to women. Women may not leave an abusive relationship because they may have lost contact with their family and friends, or their spouses may be threatening to harm their loved ones.

Economic factors also contribute to women staying in abusive relationships. Regardless of advances made by women in the workplace in general, women still make less money than men and may not be economically independent. Women still are primarily responsible for the household work and childcare (Machung 1989). Traditionally, men have controlled the economics of the household, including women’s
independent income. Separation presents innumerable problems for women with respect to housing, childcare and income. For some, there is a great deal of shame in applying for government assistance, even if only for a short while.

In Ontario, with welfare cuts and a lack of affordable housing and childcare options, the cycle of violence may be replaced by a cycle of poverty. Studies have shown that domestic violence is certainly a contributing factor of homelessness for fifty percent of homeless women (Zorza 1996, 421). For example, Metro Toronto Housing’s priority program for women who are experiencing domestic abuse takes on average two to three months for a vacancy (Rachin 1997, 792). As well, the rules which govern eligibility for social assistance illustrate experiences of poverty for women who are experiencing/have experienced domestic abuse. An abused woman must leave the dwelling place she shares with her spouse and establish an independent address before she is eligible for government assistance (Falkiner v. Ontario (Ministry of Community and Social Services (1996)). Many women just do not have the financial resources to leave.

If women are able to leave their spouses, often they lack the job search and self-promotion skills necessary to secure employment in today’s job market (Rachin 1997, 793). Not only gender, but race, immigration status, ethnicity, disability, age and sexual orientation will all exacerbate poverty. These factors will be discussed in greater detail in the following section.

The National Organization of Immigrant and Visible Minority Women of Canada (hereinafter NOIVMW) (1993) found few studies that look at how immigrant women face multiple oppressions; most studies focus on patriarchy. NOIVMW calls for published information and statistics on violence against women for immigrants, refugees
and racial minorities (1993, 10). The NOIVMW report includes a description of each of
the major theories on domestic abuse (1993, 10):

*Resources Theory* – the control of economic resources determines who has power in the
relationship. The less economically independent the wife is, the more susceptible she is to
experience abuse by her partner.

*Exchange Theory* – the economic inequality between men and women is a predictor of
wife abuse.

*Patriarchal Theory* – the key predictors of wife abuse are male economic power and male
decision-making power in the family. While economic inequality strongly predicts wife
abuse, women’s economic power or solidarity with other women is a powerful predictor
of the absence of wife abuse.

*General Systems Theory* – family violence is a feedback system operating at the
individual, family and societal levels.

The report adopts the General Systems Theory. It suggests that any understanding of and
attempts to control family violence should view family violence as the product of the
systems operating at the individual, family and societal levels with each system affecting
the other. Kurz (1998) critiques the use of the Systems Theory as a gender neutral
framework. She argues that the paradigm ignores gender norms and relations of power
which are part of all social relations (1998, 198).

The NOIVMW report, however, reaches a conclusion that suggests a framework
based on the dynamics of power and control:

Our perspective is based on the power relationships that exist both
within the family and in society. We theorize that the sexist and racist
systems that exist in Canadian society create and sustain the conditions
for violence against women to occur, and are responsible for the social
and institutional mechanisms that affect the lives of immigrant, refugee and racial minority women of Canada (1993, 11).

The report clearly recognizes that power imbalances pervade all social relations and these imbalances are the product of gender, class, race, and other social constructions. Illustrating this, the report lists factors that are linked to violence against women taking into consideration their social location as immigrant, refugee or racialized women in Canada (1993, 12-15):

**The Woman**
- Economic dependence on partner
- Denial of public assistance
- Fear of default of child support payment
- Fear of deportation
- Fear and frustration of facing the justice system, immigration, health care system and other service providers
- No immediate access to intervention
- Lack of access to counsellors of appropriate cultural/linguistic and racial background
- Lack of outreach to isolated women
- Lack of confidentiality
- Fear of revenge by partner
- Fear of losing children
- Guilt and shame
- Parenting in a new society
- Forced into a choice between being beaten and living in poverty
- Unemployment

**The Family**
- Defined sex roles
- Childcare is the responsibility of women
- Structure of families and the position of women in it (presumption that male is head of the household). Male decision making power in the family
- Myth that keeping the marriage together is always best for the children
- Stigma from family, friends and community
- Divorce is unacceptable in some cultures and religions. Stigma of divorce applies mostly to wife.
- Control of women's sexuality
- Arranged marriages
- Threats of reprisals (sponsorship withdrawal)
- Isolation
- Blaming the victim
- Reduced sociability
- Changing roles
- Uncertainty of new roles

The System
- Accreditation – Non-Canadian educational qualifications and work experience are not recognized thereby creating situations of unemployment and underemployment.
- Employment relation factors and violence against women
- Ethnic inequality when accessing services
- Lack of participation and representation in the decision making processes
- Restricted opportunities to learn the official languages
- Immigration laws and practices
- Justice system – issues such as welfare fraud and inherent gender and race biases pervade the system
- Lack of prevention
- Women and children forced to leave home, not the male perpetrator
- Lack of community based intervention strategies
- Lack of culturally and linguistically appropriate services and information
- High level of violence against women in society – murder, rape, assault etc.

In sum, the tactics of power and control employed over women result in their isolation, alienation, self-depreciation, and adaptation. These are all effects of the various dynamics of power and control that are employed consciously by their spouses, but reinforced by cultural, social and economic factors at the levels of the family and the system.

Thus far absent in this description of the abusive relationship are the strength and the resistance that women who have experienced domestic abuse consistently demonstrate. I have described women as mere subjects of these tactics of power and control. In doing so, these women have been described and treated as is characteristic of their treatment by professional services, and importantly here, legal services. Every action or word women do or speak is one of strength and survival. In the first phase, women employ tactics to placate their spouses as the tension grows; they pull on their
strength to minimize the tension. In the second phase of violence, women act to protect themselves, whether that entails enduring the violence themselves, protecting their children, leaving or staying in the situation to protect themselves or their family from even more serious harm. This strength of women who have experienced domestic abuse is all too easily lost or ignored in their treatment and characterization by professional services. When their strength and their resistance are not recognized and affirmed, the myth of women who have experienced domestic abuse as passive subjects is reinforced in society and within the women themselves. Their feelings of self-blame and guilt for not leaving the relationship, for having provoked the abuse, for not stopping the abuse, are strengthened instead of being challenged. Such negative reinforcement works to impede the recovery process for women.

The generalizations inherent in the descriptions of the Battered Woman’s Syndrome (Walker 1984) and other writings can be seen as one more example of tactics of power and control, unintentional or not. This exercise of power and resulting domination is evident and dangerous for all disadvantaged groups, particularly for immigrant women who have experienced domestic abuse. Domestic abuse has traditionally been conceptualized as a gender battle whereby power is exerted by the dominant gender over the subordinated one. It is essential to incorporate race, immigrant status, class, sexual orientation, age and disability into the framework. Crenshaw (1991) calls this framework “intersectional subordination.”

Part II – The Immigrant Woman

Canada has a racialized and painful history of immigration and immigration continues today to be part of our nation building. People from a vast number of different
countries live in Toronto. Domestic abuse affects all women, but immigrant women face multiple oppressions. Immigrant women may have come voluntarily to Canada or may have followed their spouses here or they may have been forced to leave their own countries as refugees. These women, regardless of their immigration status, or length of time in the country, will remain “immigrant women.” Das Dasgupta, writing about the United States, notes that “immigrant has become a constructed rather than a legal category in this country” (1998, 210). As these women seek legal and social services, housing, and support, it is essential to understand this construct in addition to their situation as women who have experienced domestic abuse. The same could be said for Canada. Another author, Das Gupta (1996, 22), examines in her book, *Racism in Paid Work*, how present day stereotypes in Canada have deep historical roots.

In Ontario, Ng (1996) has studied the social construct of “immigrant women.” Categories and definitions are constructed and imposed by the dominant group. Thus, “immigrant woman” and “visible minority” are examples of categories that Canadian society has constructed to identify and place diverse individuals. An immigrant woman is uneducated, does not speak English and is a visible minority.

As with “immigrant women,” “race” and “gender” are also social constructs and their meanings change depending on context (Henry et al. 1992, 2). Unlike class, however, gender and race pertain to specific representations of a “physiognomic,” “biological,” or “natural” difference (Anthias and Yuval-Davis 1993, 112).

Gender relates to the “social construction, reproduction, and organization of sexual differences and biological reproduction but cannot be reduced to biology” (Anthias and Yuval-Davis 1993, 112). Gender stereotyping includes ideas about the
ability of the female to partake in certain forms of labour, paid labour, as well as ideas of mothering and the needs of women.

Race may relate to the place of origin of the collective, or may be historically, geographically, or culturally based. Appiah defines racial prejudice as:

\[
[\text{the tendency to assent to false propositions, both moral and theoretical, about races – propositions that support policies or beliefs that are to the disadvantage of some race (or races) as opposed to others, and to do so even in the face of evidence and argument that should appropriately lead to giving those propositions up (in Goldberg 1990, 15-16).}]
\]

There are commonalities between gender and race. For example, both use implicit assumptions about the naturalness of difference, which may then serve as legitimizers of inequalities in class positions. As well, both involve exclusion and disadvantage to favour the dominant group. Yet while race and gender are both dependent upon an immutable biological origin, the specific composition of the construct derives from cultural contexts.

The discourses of race and gender discrimination are distinct. They are not, however, independent, and cannot be viewed as such, as they are the results of “social relations of power and subordination along different constructions of difference and identity.” (Anthias & Yuval-Davis 1989, 109) Nor is it possible to compare racism and sexism because the significance of race will be marginalized (Grillo and Wildman 1995, 172). Further, while race, gender, and class may depend on different existential locations, “[but] they are not manifestations of different types of social relations with distinct causal bases, within distinct systems of domination.” (Grillo and Wildman 1995, 172) If women of colour are seen implicitly as belonging to mutually exclusive categories, then they will be rendered invisible in an approach that fosters essentialism.
Harris (1990, 588) defines gender essentialism as, "[t]he notion that there is a monolithic women's experience that can be described independent of other facets of experience like race, class and sexual orientation. . . ." Similarly, racial essentialism is the belief that there is a monolithic Black, Chinese or Chicano experience (Harris 1990).

While many scholars have been working to incorporate gender, race, and class into their studies of women, Ku (1994) argues in her Masters thesis that their analyses are not adequate to account for Chinese women's experiences. She suggests that the "immigrant woman" construct is damaging to those Canadian-born Chinese and middle-class Chinese who speak English well, are well educated and established (1994, 33). Ku uses Essed's theory of everyday racism (1991, 1990) to explain the experiences of Chinese women in education.

The experiences of women of colour must be understood from their own interpretations of their reality and how their interpretations interact with the society. Such particularity is essential to provide connection between practice and theory (Schneider 1992). Essed (1991) presents a framework for analysis for women of colour in the workplace based upon a woman's interpreted experiences, or "experienced reality," in the form of knowledge. The views and perspectives of the discriminated woman are critical precisely because society has judged her interpretation of reality to be problematic and reactionary (1991, 272-274). Her knowledge will assist in the deconstruction of some of the myths of dominant knowledge.

Essed (1991) argues that the experiences of everyday racism are crucial to account for the complex nature of the race and gender discrimination. She argues that racism cannot be separated into individual and institutional/systemic forms due to the
strong interconnections between everyday events and structural power differences, that is between micro and macro-structural perspectives.


The woman of colour, the minority, is marginalized to maintain privileges for the majority. This construct results in a relationship of domination/subordination. The barriers erected between the margin and the centre may cause a number of feelings: of defeat because the attempts to reach the centre are thwarted; of being devalued because the woman’s values are rejected; and of being homeless because the woman is treated as an outsider (Adleman & Enguidanos 1995, 15).

She begins to feel invisible, and when she does feel visible, she is self-conscious. A woman of colour may become a token of her group so that the “specific differences (of personality, posture, behavior, etc.) of one woman of color stand in for the differences of the whole collective.” (Mohanty 1990, 179) Despite human rights legislation and the Charter-enshrined policy of multiculturalism and guarantees of equality, women of colour do not feel equal.

The term, “double jeopardy,” has been applied to women of colour who experience discrimination (Carasco 1993). As Professor Carasco explains in her
commentary on discriminatory salary practices at the Faculty of Law of the University of Windsor:

For women of colour, experiences of discrimination are complex and do not fit easily into the existing legal structures of racial discrimination. While the effects of discriminatory conduct may be evident, isolating race or gender as the basis for the inequity is often difficult (1993, 143, emphasis in original).

While theory on gender and race discrimination abounds, less has been written on specific analyses of these challenging concepts within concrete settings. Much of the on-site research on women and work has only studied the role gender plays and this has been largely limited to employment settings (see Beechey 1978; Vogel 1990). Commentators have observed generally the lack of attention to race (and other factors such as immigration status) within the battered women’s movement (Sarick 1992; Asbury 1987; Coley and Beckett 1988; Lockhart 1991; Hawkins 1987). The following section will look specifically at the writings that examine domestic abuse and immigrant women or women of colour. The last section reviews some recent and relevant studies on the needs of immigrant women.

The Immigrant Woman and Domestic Abuse

There is a small, but growing body of literature looking at immigrant women who have experienced domestic abuse and their unique social, legal and economic problems (for example Orloff, Jang and Klein 1995; Jang 1994; Ammons 1995; Wang 1996; Roy 1995; Coutinho 1986; Martin and Mosher 1995). Some of the writing appears in grassroots publications (Canadian African Newcomer Aid Centre of Toronto 1992; Aboriginal Family Healing Joint Steering Committee 1993; Sy and Choldin 1993). Some
writing in academic journals appears to serve the purpose of awareness and sensitizing the legal (and other) professionals who represent immigrant women who have experienced domestic abuse using the legal system. There are also some studies (MacLeod and Shin 1994; Godin 1994; Law Courts 1995; McDonald 1999b) that focus on the needs, including the specific legal needs of immigrant women.

From a legal theory perspective, Crenshaw (1991) raises serious questions about feminist writing on domestic abuse. She argues that some women's advocates "have even transformed the message that battering is not exclusively a problem of the poor or minority communities into a claim that it equally affects all races and classes" (1991, 1259). The author points out that there are no reliable statistics to support this claim, while there are statistics that suggest there is a greater frequency of violence among the working class and poor (1991, 1259). Crenshaw concludes that the desire to maintain integrity in the African American community or to discourage stereotypes of black men as uncontrollably violent may have led to the minimization or suppression of the problem of domestic violence in that community.

Richie (1985) poses similar concerns with stereotypes about violence and the black community. She notes that it is especially difficult for a community that has experienced violence at the hands of the police, to turn to the criminal justice system for protection (1985, 41). Or as Tong observes:

The battered black woman finds herself in racist binds that do not affect battered white women. Black women are even more prone than white women to excuse their husbands' violent behaviour. . . . Because the law has dealt more harshly with black rapists than white rapists, there is reason to believe that it will deal more severely with black woman-batterers than white woman-batterers (1984, 170-71).
Both Richie and Crenshaw believe that the problem is not the portrayal of violence, but rather the failure to portray images capturing a complete understanding of these communities. They feel that to suppress domestic violence in the interests of anti-racism or anti-classism has costs (1985, 41; 1991, 1253).

Richie and Kanuha (1993) note that there is very little research on ways that the traditional responses of institutions to violence against women are compounded by racism. The authors look at the health system in this article, but there are many parallels to the legal system. When a woman of colour is abused by a man from her own community, the community culture is vulnerable to misunderstanding and marginalization by the larger society (1993, 293). For the woman, she may be discriminated against trying to access services and at the same time, may feel protective of her spouse, who might also be unjustly treated by the police and court system. A delicate balance ensues as the woman tries to care for and be loyal to herself, her spouse, and her community.

Other authors have also written of cultural stereotyping in domestic abuse. For example, Ammons (1995) considers whether stereotypes of the black woman as “very strong” or “inherently bad” preclude her from being considered vulnerable to battering. She concludes that black female defendants may need additional expert testimony to explain why certain characterizations or cultural behaviour, while inconsistent with the notion of dependency, do not negate the fact that black women can be trapped in violent relationships.

Wang (1996) argues that the anti-domestic violence movement is white-centred and that the Asian American civil rights perspective is male-centred. As such, the
battered Asian American woman's needs go unaddressed. She cites problems such as immigration status, cultural norms and harmful stereotypes. Wang (1996), like Harris (1990), rejects any one paradigm which would assume one essential experience for all members of a particular community and adopts a "broader, non-linear vision which embraces the intersectionality of multiple, co-existing identities." Das Dasgupta notes that generalizations are dangerous where immigrant women are viewed as "backward, subservient, and quietly accepting of male domination and patriarchal control" (1998, 210) and thus, inferior to North American women.

In contrast to this rejection of essentialism, Roy (1995) compares domestic abuse in general with the domestic abuse of immigrant women, particularly Asian, Latin American, and European women. She argues that while immigrant women from different cultures may face unique cultural concerns, these differences should further attempts to decrease the incidence of domestic abuse for immigrant women.

Roy suggests that Latin American women must overcome sexist and racist attitudes, both within their own cultures and throughout the United States. Latin American women are raised to admire family relationships, marriage, and children and prioritize their communal needs. *Machismo*, male dominance, is evident in both subtle and covert ways throughout Latin American communities and has helped a society tolerate or accept violence against women (Blea 1992, 127). When the spouse faces discrimination and the denial of economic, education and political benefits, this can lead to low self-esteem (Blea 1992, 127). While the Latin American community is socially and economically diverse, women may have low education levels, poor jobs, marry young and have children at a young age (Blea 1992, 119).
While Roy might be accused of essentialism, her and Blea’s comments are necessary to provide a general context. They do not, however, provide the particularities of individual women’s experiences. Further, in her article, Roy fails to note the positive work and creative strategies used by the Latin American community in education and prevention strategies. Many women's groups in Latin American countries have made excellent inroads in raising public awareness about violence against women as an international human rights violation (Schuler 1992; Bunch and Reilly 1994).

Razack (1995) examines gender persecution in cases brought before the Canadian Immigration and Refugee Board under the new gender persecution guidelines. She looks primarily at domestic violence cases and concludes that women are most likely to succeed when they are presented as victims of dysfunctional and patriarchal cultures and states.

Orloff, Jang and Klein (1995) acknowledge that all women have individual needs, yet they highlight the additional problems faced by immigrant women who have experienced domestic abuse. These include: fear of deportation, cultural biases, communication barriers, education and economic barriers, medical problems, relocation of spouses, host country perceptions, and distrust or fear of the legal system.

Many immigrant women who have experienced domestic abuse may distrust, or fear, the Canadian legal system. This fear may arise from experiences with the legal systems in their home countries. Many Latin American countries have not had impartial judiciaries. Rather the legal systems are extensions of a repressive government and there may be a belief that only those with connections to the government or those who are wealthy will benefit from using the system. As well, Latin American countries use a civil
law system where the courts accept signed, notarized and sealed affidavits as evidence. The use of oral testimony in criminal and family cases under the common law here in Ontario may be difficult for immigrants to understand, particularly for women at a time of crisis and who have endured the trauma of domestic violence. Where these concerns are not acknowledged, they can present real barriers as the women may not attempt to access the legal system at all.

Other barriers include language and/or culture. In Ontario, legalese, the language of the law, is difficult even for native English speakers. Where a woman has limited English skills, gaining access to information, to the legal system and to social services proves challenging. In the situation of family law, there is very little printed information available. Further, there is no guarantee that certified translators will be available at any stage in the legal process or in seeking shelter, food and counselling. Communication is critical to ensure trust, effective and clear reporting of events and the safety of the woman and children.

Coutinho notes that immigrant women fear the ostracization of their community and while this is “not unique to the immigrant world, … the fear of ostracization in her own community can be especially immobilizing for an immigrant woman who cannot speak English, and, therefore cannot find an alternative set of friends and neighbours” (1986, 43).

Perhaps the most difficult barriers faced by immigrant women who have experienced domestic abuse are immigration status and international kidnapping. Often it is the male who applies for and receives permanent residency status and he then will sponsor his wife. When a woman does not have secure immigration status, the fear of
deportation can be overwhelming. An abuser may have made threats in this context or actually have withdrawn his sponsorship. Anderson (1993) writes about this threat, looking particularly at the situation in the United States for military brides and mail order brides.

In Canada, a woman in such circumstances might be able to make a claim to stay on the basis of humanitarian and compassionate grounds, but there are three problems. First, she may not have access to information about her right to make this claim, given language limitations and lack of public legal education. Second, the cost of such a claim is prohibitive for many at approximately $1,475 (Rachin 1997, 793). Third, in order to be successful, the woman must demonstrate close ties to Canada and economic self-sufficiency. Both of these tests are very difficult if the woman lacks the language skills, immigration status, and self-confidence needed to gain employment.

Martin and Mosher (1995) examine the use of aggressive criminal justice intervention in general, but also specifically with respect to battered immigrant women in Toronto. This intervention includes: mandatory or presumptive charging or arrest policies; no-drop prosecutorial policies; and a preference for significant punishment (incarceration) as an outcome of the criminal process (1995, 4). In 1982, the federal Solicitor General wrote to all police departments in Canada urging the adoption of such measures. Policy to that end has been included in Ontario’s Policing Standards Manual (1994) and Crown Policy Manual (1994).

For the past two decades, women’s advocates have promoted these policies on the grounds that they provide the best protection for individual women who have experienced domestic abuse and that they help change the societal norms which currently sustain
men's violence against women. Martin and Mosher (1995) argue that this criminal justice intervention has failed to live up to either of these promises and that it is incapable of doing so. They trace the demands for reform of criminal justice intervention by feminist critics who sought a re-characterization of domestic violence from being a private matter to a public one. The authors refer to this period as the "privatization era" of institutional responses (1995, 6).

Yet in research where the women themselves are asked what they want, results "show[s] that most women who are battered do not want criminal justice involvement in their lives, and have little faith in its ability to stop the violence . . . The respondents agreed that virtually no women want charges laid" (MacLeod and Picard 1989, 6, 34). Martin and Mosher argue that the resistance of an abused woman to this intervention is not "wrong" nor the product of "false consciousness" and explore the reasons underlying that resistance (1995, 6).

To do that, Martin and Mosher focused on the social location (race, class and citizenship status) of the abused woman and the different impact that mandatory charging has depending upon the social location of the woman, which they found was rarely addressed in the academic literature (1995, 7). The authors interviewed an organized and politicized group of Latin American women who are survivors of domestic abuse, as well as several crown attorneys, and other women who had been abused. They argue that after examining women's experiences with the criminal justice system, the system has done little to protect individual women and it has not reduced violence against women generally. The current strategy continues to blame the individual, to depoliticize the fight for an end to violence, and to turn the behaviours of abusers and their victims into
pathologies. A criminalization strategy does not account for the role of power, how that power is distributed according to race, class, disability, age, sexual orientation and the role of the state in maintaining the power distribution (Martin and Mosher 1995, 9).

The women interviewed indicated a number of reasons for resisting criminal justice intervention. These include: the risk and fear of economic insecurity; the risk, harm and fear of institutional surveillance and intervention; the risk, harm and fear of the family and the community; risk, harm, and fear of racist responses; and the fear of re-victimization by the legal process (Martin and Mosher 1995, 25-32).

Martin and Mosher’s work has important implications for this research. There are several questions that need to be asked of their findings. For example, what role can information and learning play in allowing the women to realistically assess their options? Women have expressed the need for full and accurate information (MacLeod and Picard 1989). Martin and Mosher express concern over the inaccuracies and inadequacy of literature giving advice to battered women (1995, 42). The authors also argue that the criminalization strategy cannot guarantee an individual woman’s safety and that it fails to meet the goal of long term changes in public attitudes towards violence against women (1995, 35-38). Could education address these goals more realistically?

Recent Studies

MacLeod and Shin in their 1994 study, *Like a Wingless Bird: A Tribute to the Survival and Courage of Immigrant Women who are Abused and who Speak Neither English nor French*, interviewed 64 women and found that very few had any helpful information at all. Regarding legal information, the women specifically asked for
information regarding: how the system works; separation, divorce, custody, support, division of property; women’s rights; laws regarding wife assault; information on charges and convictions in wife assault cases; how the justice system can help and protect women; how the justice system can prevent the husband from disturbing or hurting his wife; legal aid; the duties of police officers; laws related to deportation; how to get children back; and how to deal with abusive in-laws (1994, 38).

When asked how should this information be conveyed, three principles were emphasized in the responses: do not jeopardize the privacy and safety of the women; ensure that the spouses do not suspect action; and protect the anonymity of the women. Given this, the ideas included: call-in radio shows where women could call in anonymously and ask questions of a guest such as a lawyer or social worker; the production of pamphlets and posters; articles in community newspapers; legal advice offices; trust phone lines where women could call and get advice or answers to their questions in their own languages and be assured of confidentiality; and the organization of workshops for the entire community, as well as workshops for women themselves.

Importantly, MacLeod and Shin (1994, 41-42) outline areas where values between cultures can clash. First of all, many services encourage short term dependency on welfare and/or shelters. This emphasis on short term dependency conflicts with women’s value of self-sufficiency. Second, many women may reject the mainstream individual empowerment model, favouring community empowerment models where there is a learning through example approach and an emphasis on mutual community and family-based power and strength.
Third, many women see counselling as all talk and no substance and do not understand the focus on individual happiness. For them, happiness is tied to the good of the family and community as a whole. Fourth, the emphasis on individual rights, inherent to the liberal legal system, is difficult for women to understand because they believe the rights of the community should be the central concern. Women also do not understand the model which offers only them support, but not for their spouses or children. The entire family is in pain and everyone should receive help.

Many women in MacLeod and Shin’s study were illiterate or had a low literacy level, not just in English but in their own languages. Word of mouth is the most common, effective and trusted method of sharing information. Written information provided by a stranger will have little impact.

As well, the study found that many women want long term approaches, as opposed to services that emphasize the crisis only. Finally, for many women, their spirituality is an integral source of strength and direction for them. Services which do not incorporate or even respect their spirituality will be seen as destructive.

Overall, the women’s experiences with ethnocultural services were the most positive for the women out of all the service providers. Many experiences with lawyers were not positive. Their experiences with the police were mixed, depending largely upon their experiences and expectations in their home countries. MacLeod and Shin (1994, 45) emphasize that any ideas must be implemented in consultation with individual communities to ensure their appropriateness and that victims/survivors should be involved in the program planning. These findings support the location for this study at the Centre for Spanish Speaking Peoples and the collaboration of its staff.
Five years ago when MacLeod and Shin completed this study, the authors concluded that there was definitely a need for increased education and awareness, but they also called for new and creative ways to respond to the overwhelming needs of these women.

In recent years, the federal Department of Justice has sponsored a number of studies on Public Legal Education and Information. A working document by Godin (1994) reviews the then available legal educational materials on wife assault. The report is based on a literature review and telephone interviews with service providers. The author outlines additional barriers that immigrant women face: sponsorship breakdown, waiting for sponsorship status, language skills, and overall, a lack of information. She concludes that much more education and information is needed. Her review of the available materials is useful and yet also reveals the paucity of materials. Her research did not seek extensive input from immigrant women themselves.

Currie’s 1994 study, Ethnocultural Groups and the Justice System in Canada: A review of the issues, presents an overview of the major issues in multiculturalism and justice in Canada. In its chapter on “Public Legal Education and Information (PLEI),” the author cites Etherington’s report (1991) and relevant themes. These include: the need for more culturally sensitive and accessible PLEI; the need to eliminate fears about the Canadian justice system; the need to emphasize Canadian legal culture; the need for language appropriate, multi-media PLEI formats; the need to involve government bureaucracies, as well as different communities; the need to employ outreach efforts for hard to reach sub-groups; the need to focus on the legal information needs of immigrant
and minority women; the need to focus on education in PLEI; and the need for a national strategy (1994, 16-22).

Currie recommends that both federal and provincial governments become more involved with PLEI development and delivery (1994, 19-20). She also recommends that ethnic communities be used for consultation and as a component for community development and action. What is absent in this approach is any analysis of the role state funding plays in controlling alternative paradigms presented by community organizations. Indeed throughout the report, there is an assumption that legal education and information are value-neutral. Further absent is any analysis of power relations or any questioning of the law. Current strategies cannot be seen as the neutral dissemination of information. By not challenging the law, these PLEI activities/projects inadvertently support the status quo and there is no recognition of this.

Finally, Currie acknowledges the difference between education and information (1994, 21). Information focused projects/activities tend to be reactive and focused on specific problems.

This report devotes a chapter to women and the family and looks specifically at domestic violence. Currie recommends that women need information about the law, access to immediate protection and support (specifically, access to the courts), and follow-up counselling and support services (1994, 69). Interestingly, the author does not articulate the need for legal education, but focuses on the need for information that will dispel myths and calm fears about for example, the legal system’s response or the possibility of deportation.
Another relevant study sponsored by the Department of Justice is Burtch and Reid's *Discovering Barriers to Legal Information: First Generation Immigrants in Greater Vancouver* (1994). This project chose five ethnic communities (Chinese, Hispanic, Polish, Punjabi, and Vietnamese) in Greater Vancouver and conducted interviews with 146 women and 154 men using a questionnaire of both closed and open-ended questions. Both quantitative and qualitative data concerning barriers to accessing legal information were provided. About one half of those interviewed had attended classes in legal education at People's Law School.

The study found that while there were distinctions in emphasis among the five communities, overall the dissemination of legal information through written material in the form of pamphlets was being used and was seen to be helpful. In terms of barriers to access, language was cited most frequently, and location, time, complexity of the law and knowledge also figured in the responses (1994, 52-56).

When asked why they attended the People's Law School, responses varied, but there was a high percentage that was seeking specific legal information. Findings also indicate the importance of gaining general legal knowledge during the process of settlement (1994, 68). The respondents were also asked for ways to improve the dissemination of legal information. Increased use of bilingual educators or translators, the use of well-translated written materials, and the provision of child care and transportation money were all cited (1994, 99).

In the Law Courts Education Society of British Columbia and their Comparative Justice Systems Project (1994), seven cultural communities engaged in participatory research to design the content and format of legal information appropriate for each
community and "cultural sensitization training to service providers within the court
system" (Project Report 1994, 5). Underlying the project is the assumption that, "[l]egal
education within these communities needs to start from the experiences and knowledge
base of these communities." (1994, 5) As a result, the members of each targeted
community were involved at every stage of the project.

The Latin American community in British Columbia was one of the targeted
communities participating in the project. It has a population of approximately 14,600
(Project Report 1994, 56), with over a third coming from Central American countries.
The project undertook key informant interviews to develop a set of critical assumptions
concerning the attitudes of the community towards the Canadian legal system. These
assumptions assisted in the development of the focus groups and understanding what
responses would be needed in any public legal education program. They include (1994,
57-59):

**General Critical Assumptions**
- People from Central America are used to operating within the informal
  system; few deal with the formal legal system
- The system in Central America is more centralized. Here people are confused
  by the many levels of the courts.
- There is an assumption of corruption among police, which leads to a fear of
  police.
- Accessing the system is a foreign concept.
- The legal system operates for the wealthy. The legal system is an instrument
  of the oppressor.
- There are few human rights in Central America.
- Bribing is a mode of operation in Latin America.
- The government is often your enemy.
- Lying constitutes survival in Latin America and this is also true to some extent
  in Canada.
- There is a fear of authority/police.
- The system in the country of origin is run by the military and is non-
  democratic.
- The ordinary citizen has no trust in the system.
• In many Latin American countries, there is a fear of instability in the community, i.e. there is a continually changing political climate.

**Police**

• There is a fear of the system. Police are seen as being people to avoid. They are seen as serving authority, not as providing service for the community.
• Police are seen as being aggressive, not protective.
• There are different verbal clues to observe when dealing with police, e.g. eye contact.
• Community fear of police can look like guilt as people can become defensive and aggressive towards police.
• There is confusion regarding the role of police in many situations. Going to the police can be equated with torture for political convictions.
• There is little idea of individual responsibility.
• In Latin American countries, if you report a crime, you could be accused of being involved in the crime.
• People know about democratic concepts, but are vague about what they entail.
• There are feelings within the Latin American community of discrimination by police against members of the community.
• There was no clear idea of rights under arrest.
• There is often a refusal to call police in domestic disputes. Women are reluctant to call police in domestic disputes for fear of having their husbands taken away; they need them for financial support.

**Court System**

• People find the justice system intimidating.
• There is ignorance of the trial system in Canada.
• There is a belief that justice is more possible in Canada.
• There is fear of retaliation against witnesses.
• Judges are seen as representing the system and are not trusted.
• There is a perception of discrimination against Latin American people in court.
• People are not always comfortable with interpreters.
• Court-appointed interpreters are seen as the enemy and part of the system.
• Court personnel lack sensitivity to differences. For example, they are intolerant of people with different accents.
• There is a belief that if you go to court, the system makes an assumption of guilt.
• Interpreters are often seen as being insensitive to individuals from various countries.

**Lawyers**

• The lawyer’s role is unclear.
• Most community members don’t know what services are available.
- Lawyers are seen as “players that get you through the system.” They are brokers that can penetrate the system.
- Some people think lawyers can buy your way for you.
- Clients have high expectations. In Latin American countries, the lawyer who takes a case follows it through. Here you can be passed down the line and people get frustrated trying to deal with different lawyers.
- People are vague about the concept of legal aid. They see getting through the legal aid system as a waiting game.
- There is a distrust of young lawyers.
- Affordability is an issue.

These assumptions, many of which are echoed in other studies (for example MacLeod and Shin 1994) and the literature (for example Roy 1995), are important to acknowledge and can be weighed against the actual findings of this study.

Another study conducted by the Law Courts Education Society is Domestic Violence and the Courts: Immigrants and visible minority perspectives (1995). This study used interviews to determine the legal information needs and barriers to access of immigrant and visible minority women who have been victims of violence in relationships. The report found that women have trouble accepting information from the government; they need legal information from an agency they can trust. Other barriers included: language, lack of knowledge of justice system and services, fear of violence and/or kidnapping, fear of deportation, fear of authority, and community views.

McDonald (1999b) prepared a report for Community Legal Education Ontario and the federal Department of Justice on the legal information needs regarding the Child Support Guidelines of low-income women in Ontario. Service providers, legal and non-legal, were interviewed across the province. The report found a very low level of understanding of the Child Support Guidelines. Women often did know that their children had a right to support from their spouses, but this was the extent of their knowledge. In
most cases, women would not seek child support where their spouses had been abusive, could not be found, or were not employed.

Education Wife Assault, a non-profit organization based in Toronto, is currently undertaking a study on immigrant women and the professionals who serve them and their needs surrounding custody and access issues. At the time of writing, results are due in the fall 2000.

The methodology employed by the Law Courts Education Society will be useful for this study. Overall though, the programs or studies themselves lack any analysis of power relations or the role of the state.

Part III – The Lawyer/Client Relationship in Poverty Law

Poverty law is the body of law, practices, and literature focusing on the areas of law, such as housing, discrimination, immigration and social assistance, which affect low-income and otherwise disadvantaged people. As a discipline, it emerged during the turbulent sixties and the civil rights and peace movements in the United States and in the early seventies in Canada. Since that time, there has been an increasing awareness and understanding of the needs of these client groups which differ fundamentally from those of the traditional, middle and upper class, client group. In 1970, a now well-known article appeared in the Yale Law Journal, entitled “Practicing Law for Poor People.” The author, Wexler, wrote:

Unfortunately, the traditional model of legal practice for private clients is not what poor people need; in many ways, it is exactly what they do not need. . . .

Poor people are not just like rich people without money. . . .
Poor people are not poor by chance; they are not poor through lack of personal merit; they are not poor because it is inevitable that someone be poor. Poor people are poor because some people who are not poor believe that it is a good thing to have some poor people around (1970, 1049).

The traditional model of legal practice (or services) involves using the courts (or administrative tribunals or other legal mechanisms) through case-by-case litigation to enforce and/or expand rights. Wexler (1970) challenged poverty lawyering by arguing that this traditional model does not improve the collective situation of disadvantaged groups and individuals. Rather this approach creates a relationship of dependency (the client on the lawyer) and also isolates individuals from others with similar problems (1970, 1053). The author called on lawyers to expand their practices by: 1) informing individuals and groups of their rights, 2) writing manuals and other materials, 3) training lay advocates, and 4) educating groups for confrontation (1970, 1056).

In the late eighties, the “new poverty law scholarship” emerged drawing upon the work of French social theorist Foucault and a different understanding of power. Power is not a tool, but takes on fluid, changing forms. This view of power gives us a new way to look at interactions between individuals and as such, has provided understanding for groups of disadvantaged people in their interactions with the professionals who seek to help them. These professionals can be welfare or social workers, or in the legal sphere, lawyers, community legal workers, law students, judges, or the court workers who attempt to make the system run smoothly.

Authors such as Lopez (1989, 1992), Alfieri (1988, 1991, 1993) and Sarat (1990) focus on the lawyer and client relationship and the role of the client narrative and voice. This scholarship is important because it provides tools to understand the dynamics of
power and control that are inherent in abusive relationships in domestic violence. In the lawyer/client relationship, many of these dynamics of power and control are reproduced, albeit on a much more subtle level.

Lopez (1989, 1610) has characterized different types of lawyering. The first he describes is “regnant lawyering” which is the activity of liberal lawyers who work for social justice, but are entrenched in the traditional legal system and not aware of its shortcomings. Regnant lawyering is similar to White’s “lawyering in the first dimension” (1988, 756). These lawyers believe in and support the principles of “access to justice”; they are doing their part by accepting legal aid clients, being sympathetic to their plight and accommodating them. They play a familiar role, learned in law school and in practice: to translate grievances into legal claims and to pursue a judicial remedy that will remove or ameliorate those grievances. The lawyer assumes that clients perceive their sufferings as injuries that can be redressed and the lawyer does not question the legal structure. These lawyers utilize the existing legal framework for the most part, whether it is filing papers for a divorce or social assistance appeal; this framework of action provides a familiar legal response to the problem and to what is perceived to be the client’s needs. The danger with these regnant lawyers lies in the benign aspect of their work; the subordination occurs in a benign and supportive context and hence, both clients and lawyers are misled as well (Tremblay 1992, 955).

A number of subtle techniques of power and control are used in regnant lawyering: the use of knowledge and language, normalizing judgement and dependent individualization, as well as the professional hegemony inherent in the traditional legal system.
Foucault asserts that, “detailed knowledge breeds a ‘political awareness’ of techniques and methods of control.” (1979, 200, 195-228) The possession of knowledge perpetuates a relationship of inequality and can be manipulated to exercise power. The lawyer possesses a seemingly vast body of knowledge about a world that is powerful, male dominated and out of reach for most people, especially those marginalized from mainstream society because of class, gender, race or other difference. The legal world seems, and often is, inaccessible because of the inequality of knowledge that is ever present.

In examining the use of knowledge and power in the welfare system, Alfieri incorporates Foucault’s analysis when he argues that, “The attorney/client and welfare system/recipient relations are arrangements established by a knowledge and technology of power” (1988, 669).

The language of traditional legal services reinforces the inequality of knowledge to maintain the domination in the lawyer/client relationship and the hegemony of the profession. In Canada, the profession itself, despite significant changes, remains dominated by white males. Many examples illustrate the hierarchical structure that can be established between lawyer and client: a large, imposing desk between the client and the lawyer acts as a barrier; the lawyer’s suit or robes can highlight class differences; and the general ambience in the office - the opulence of the decor, or even if the office is plain, the books or the degrees that often adorn the walls can set up cultural and social barriers that will be not be removed. The issues, the legislation, the institutions, and the processes are all unknown, complex and have potentially drastic results. The body language of lawyers or what is known as “professional bearing” is also important and the messages
that are sent can intimidate. The language of the legal world is unfamiliar for all but those in the profession. In Canada, English or French is used, but legalese with Latin maxims serve to heighten the mystification.

Bellow describes the normative lawyer language:

The lawyers dominate interaction with clients. In most discussions with clients, the lawyer does almost all of the talking, gives little opportunity for the client to express his or her feelings or concerns, and consistently controls the length, topic, and character of the conversation. Facts are obtained by a series of pointed, standard questions rather than by any process that resembles a dialogue. The lawyer then restates the client’s problems in legal terms and suggests the best available solutions based upon his or her view of the situation and its possibilities (1977, 52).

Possibilities is a deceiving word, for the possibilities presented are chosen from a closed set of legal responses. Not only is the language that lawyers speak unfamiliar, but they control the discourse (who speaks and when) and will quickly attempt to locate the client’s experience into the framework of legal responses.

During this interviewing process, many clients experience what Alfieri describes as “interpretative violence” (1991, 2125). The lawyer, in framing clients’ stories, engages in an act of interpretation. While clients may wish to play an active role in their legal battles, as independent individuals, “the interpretative impulse of preunderstanding prevail[s]” (1991, 2125). The violence of interpretative practices is the silencing of the empowering narratives of the clients’ stories. By using the powerful and evocative term “violence,” Alfieri conveys the serious damage that is inflicted by the silencing during the interviewing process.

Alfieri (1991) argues that interpretative violence occurs due to marginalization, subordination and discipline. The act of marginalization, which occurs in society at large and in the lawyer’s office, places the client in an inferior position. The subordination further entrenches this inferiority through the lawyer/client hierarchy of subject/object
relations. Discipline then acts to enforce the hierarchy by excluding the client voice. This interpretative violence is crucial to the maintenance of the dominant/dependent order of the lawyer/client relation (1991, 2126). Without this violence, all rational order, that of discourse and that of relations (who actually stands where in decision making) can be questioned by the client. The lawyer must maintain control.

In order to do this, the lawyer will exclude from her/his version of the client story the meanings hidden within the client narrative. This version is part of the lawyer-designed strategy. The lawyer expects acquiescence to the story telling, but also assumes that any strategies are “freely and properly chosen by the client” (Alfieri 1991, 2129).

Lawyers expect and inadvertently demand client obedience and thus, any alternative strategies are precluded. This is particularly harmful where a standard legal response cannot adequately respond to the client’s situation. In this respect, the lawyer exercises control, whether consciously or not, over her/his client through “normalizing judgement.” This concept was introduced by Foucault in Discipline and Punish: The Birth of the Prison (1979) and Alfieri defines it as a “value giving judgement establishing both the power and the penalty of the norm” (1991, 2129). The control is exercised as a disciplinary power, a function of the hierarchical relationship that has been established and results in a disciplinary coercion (Foucault 1979, 176).

The client’s ambit of choice is restricted as normalizing judgement sets the parameters of action that are allowed and those which are not. Handler comments that space must be created within the legal frameworks that will permit more flexible, creative resolution of conflicts (1988, 1033). If the client seeks an alternative response, one
outside the parameters established by the prevailing legal structures, the lawyer may coerce or withdraw.

The normalizing judgement creates a false reality for the lawyer, one in which the client exercises his/her choice and decision-making power. Given this, I suggest that many lawyers do not question their practices. Lawyers who represent disadvantaged people, while aware of and sensitive to their powerless position, will assume that as their clients have acted upon their own volition to arrive at the lawyers' offices, they will also act to maximize their own interests while there. I also believe that there is a general paternalistic attitude towards these clients and the lawyers genuinely believe that they know best. The lawyers are not explicitly aware of the dominance, nor the dependency created in the lawyer/client relationship, or else if they do recognize the damage it inflicts, they have come to accept it as a necessary evil that is part of doing their job.

Law students and young lawyers learn to work hard and honestly in the best interests of the client. They learn that their role is to advise their clients and act according to their clients' directions. The nature of this role is suggested in the Law Society of Upper Canada's Code of Professional Conduct where Rule 3 states, "The lawyer must be both honest and candid when advising clients." (1995) It is further noted in the Commentary:

2. Whenever it becomes apparent that the client has misunderstood or misconceived what is really involved, the lawyer should explain as well as advise, so that the client is informed of the true position and fairly advised about the real issues or questions involved.

Whether this explaining actually occurs is doubtful, or whether the clients actually acknowledge their not understanding is similarly doubtful. The nature of the traditional legal profession demands docketing and billing for each minute spent on a client's file.
Time is money, to use a cliched phrase. As such, obedience from the client promotes efficiency and the Legal Aid certificate does not pay for time inefficiently spent. The Legal Aid tariff is far below the profession’s average fees and it is very low considering the cost of practice. The result of this in Ontario has been a decrease in the number of family lawyers willing to take women on Legal Aid and for those who continue to do so, they do not have the time to challenge the traditional mode of practice.

Cost does not only refer to fees paid to a lawyer, which Legal Aid Ontario seeks to address. The law is also costly to women who have experienced domestic abuse because it represents, through family and criminal law, the manner in which women may lose their spouses, and thus perhaps the men they love, the father of their children, their economic support and for some, their sense of identity and stability (Waldman 1988, 180).

Despite claims that the lawyer is only carrying out his/her client’s wishes, I suggest that a dependency upon the lawyer is established very early in the relationship which is maintained throughout the dealings and reduces the ability of the clients to participate in any meaningful way. Freire (1970, 51) rejects “pseudo-participation” and calls for “committed involvement.” Similarly, Handler (1988, 1000) argues that before one can begin to discuss the quality of participation in a relationship, the issue of power must be addressed; dependent people have to regain their autonomy in order to participate effectively. Because of the dominance and dependence inherent in the traditional lawyer/client relationship, the possibility of clients’ being able to participate is unlikely.

In the direct services model of lawyering, the issues are dealt with as distinct, unrelated disputes, without reference to the larger contexts, whether gender or class or
race. Alfieri calls this “dependent individualization” (1988, 683); learned in law school and reinforced in the profession, it causes two distinct, but related problems.

First of all, the lawyer/client relationship is one that is self-contained. It is devoid of the political, social, economic forces that encompass and contribute to the legal problem. No dialogue ensues to explore this background and the experiential context has been abstracted away through the application of formalistic rules. As such, devoid of political and social meaning, the only response available is a legal response and there exists little possibility of challenging those other forces.

Individualization treats problems only in a legalistic manner, devoid of social and political meaning, but a second problem ensues in that the cases are treated as unrelated problems. Bellow observes that:

> the lawyers treat clients and problems individually. No efforts are made to encourage clients with related problems to meet and talk with each other or to explore the possibilities of concerted challenges to an institution’s practices (1977, 55).

Thus, the clients see their problems as only their problems, in a vacuum, which reinforces the alienation, isolation and shame that they may already feel. They are denied the opportunity for, and the potential empowerment that lies within the collective force of the community. There is power in numbers; there is support that can alleviate the feelings of isolation and helplessness that are part of their reality. Thus, we see how the traditional model of legal services can perpetuate the power imbalance within the lawyer/client relationship.

Margulies, writing in the context of the American legal services programs which are similar to the Ontario legal clinics, points out that domestic violence is “almost invisible in poverty law and lawyering” (1995, 1071). In Ontario, the same is true
because it is the private bar that has been almost exclusively responsible for criminal and family matters. He argues that the neglect of domestic violence comes from two dichotomies, both false. First, that poverty law, in theory and in practice, has been subjected to the private/public dichotomy. In the sixties and seventies, gender issues were "private" and poverty law scholarship focused on the public issues of state and the administration of entitlements. This has continued.

The second dichotomy is instrumental/affective lawyering (Alfieri 1993, 2619). "Instrumental lawyering" is using "efficient" lawyering techniques to process the most cases possible. In contrast, "affective lawyering" requires connection and developing interpersonal relationships between the client and lawyer. This involves time and emotional commitment. Issues in the public sphere (income maintenance, housing) could be dealt with using instrumental lawyering, but domestic violence in particular, and family law in general, certainly requires affective lawyering. Feminist legal scholarship has more recently challenged these dichotomies and the lack of gender in poverty law scholarship in general (Schneider 1992; Crenshaw 1991; Horsburgh 1995; Meier 1993). Immigrant women who have experienced domestic abuse must be recognized as a marginalized group. Such recognition has largely been absent in the provision of legal services.

A report prepared by the Toronto group, Mothers on Trial entitled, Family Violence = Family Law Violence (1993) supports this assertion. The report, using the experiences of ninety women, argues that the abuse women suffer within the family is replicated throughout the family law system. The chart below and on the following pages provides examples of this abuse at all stages and by all the players in the legal system.
(1998, 20-23). The man (in most cases) uses the dynamics or mechanisms of power and control against the woman. The players in the legal system – the lawyers, the police, the judges – also use these dynamics to maintain control over the woman. These mechanisms become part of the relationships.

<table>
<thead>
<tr>
<th>Woman Abuse in the Family</th>
<th>Type of Abuse</th>
<th>How the Abuse is Perpetuated in the Family Law System</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Abuses results in lack of appetite, lack of sleep, loss of concentration and memory</td>
<td>ABUSE - PHYSICAL PSYCHOLOGICAL SEXUAL VERBAL</td>
<td>Facilitates the continuation of the abuse already going on in the marriage</td>
</tr>
<tr>
<td>- Abuse takes time and energy away from children</td>
<td>DENIAL OF THE EXTENT OF THE PROBLEM</td>
<td>Repeated attendance at court, lawyer's office, prolonged assessments, repeat assessments, official guardian's office, etc. takes time and energy away from children's needs. Affects ability to properly nurture self or children; causes lack of appetite, lack of sleep, loss of concentration and memory, and sometimes loss of job</td>
</tr>
<tr>
<td>- Abuse affects ability to nurture self or children, or function normally</td>
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<tr>
<td>- Abuse has serious permanent effect on women's health</td>
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<tr>
<td>- Real problems and solutions are not even recognized</td>
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<tr>
<td>- What we do has no value</td>
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<tr>
<td>- &quot;You made your bed, now lie in it&quot;</td>
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<td></td>
</tr>
<tr>
<td>- Men withhold information on where they are going or when they will return</td>
<td>MANIPULATION VICTIMIZATION TRICKERY LYING CONCEALMENT</td>
<td>lawyers withhold full information or knowingly present false information; Lawyers prevent women from making informed decisions; Lawyers do not act effectively on women's behalf</td>
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<tr>
<td>- Men don't fully inform of hours of work and earnings</td>
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<tr>
<td>- Woman victimized and trained to believe she is at fault</td>
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<td>- Women are told they're crazy</td>
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<td>- Women are criticized whatever they try to do</td>
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<tr>
<td>- Women become dependent upon her lawyer</td>
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<tr>
<td>- No interest in illumination; professionals ignore, downplay or denigrate women's perspective</td>
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<tr>
<td>- What we do has no value</td>
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<tr>
<td>- &quot;Well you married him, didn't you?&quot;</td>
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<tr>
<td>Threats to hit or kill the woman</td>
<td>Threats to withdraw services</td>
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<tr>
<td>Threats of suicide or job loss</td>
<td>Threats to withdraw legal aid funding</td>
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<td>Threats of withdrawal of sponsorship (immigration)</td>
<td>Threats that the woman will lose custody</td>
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<td>Threats to take (kidnap) children</td>
<td>Threats of imprisonment</td>
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<tr>
<td>Threats to send immigrant children to relatives in country of origin</td>
<td>Forced compromise, forced signing of agreements against best interests</td>
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<tr>
<td>Threats to get custody of children</td>
<td>Use of professional expertise to intimate women into questioning their own credibility/understanding/knowledge of facts/knowledge of own reality</td>
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<td>Pets get hurt or killed, property damaged</td>
<td>Male-dominated legal system perspectives used to control women</td>
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<tr>
<td>Women are coerced into signing documents not in their best interests</td>
<td>Professionals “know better,” they are the “experts.” They are judgemental. They know it will come out to their advantage</td>
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<tr>
<td>Male-dominated religious views are used to control</td>
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<tr>
<td>Men “know better” they are judgemental, they know it will come out to the advantage</td>
<td>Pretence in front of other professional that woman is being treated with respect. Professionals don’t return phone calls.</td>
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<td>Pretence in front of family/friends that everything is OK</td>
<td>Other women who attend to give emotional support are kept out of offices/courtrooms or treated with suspicion; Women instinctively know not to inform that they are connected to women’s groups</td>
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<td>Family/friends made to feel uncomfortable so they don’t come to the house</td>
<td>Failure/refusal to acknowledge the reality of women’s lives, our values</td>
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<td>Impoverisation of social support systems</td>
<td>Male negative perceptions of women reinforced in legal system. The system upholds and enforces the male</td>
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<td>Lack of propriety, attempts to embarrass and humiliate</td>
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<td>Frequent job changes or moving house, resulting in continued instability</td>
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<tr>
<td><strong>DENIAL OF BASIC RIGHTS</strong></td>
<td><strong>HURTNG OF OUR CHILDREN</strong></td>
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<td>Prevent use of phone, car, credit cards and bank accounts</td>
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<td>Money for food and other necessities withheld</td>
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<td>Visits to doctors/dentists controlled or denied</td>
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<td>Lack of confidentiality of information</td>
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<td>Private agreements made with other lawyer</td>
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<tr>
<td>Orders preventing mothers from moving, preventing return to family support system</td>
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<tr>
<td>Confiscation of passports if a fear that mother will leave—a violation of constitutional right to mobility</td>
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<td>Orders routinely made restricting BOTH parents from travelling with the children, where there had been a fear of only paternal abduction</td>
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<td>BOTH are ordered to sign peace bonds when only the male is perpetrator of violence/harassment</td>
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<td><strong>REDUCED FREEDOM OF MOVEMENT</strong></td>
<td><strong>ALIENATION OF OUR CHILDREN</strong></td>
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<td>Children physically, sexually, emotionally abused</td>
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<td>Children witness abuse of mother</td>
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<td>Children made to participate in abuse of mother</td>
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<td>Children indoctrinated toward male value system over female objections</td>
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<td>Children humiliated</td>
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<td>Children’s health, education or recreational needs denied or controlled</td>
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<td>Disbelief of allegations of physical and sexual abuse and acceptance of husband’s denial</td>
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<td>Refusal to acknowledge that wife assault is damaging our children</td>
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<td>“Dis-nurturing” of children (assessments, official guardians, prolonged legal proceedings), lack of understanding of role of stress</td>
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<td>Children objectified</td>
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<td>Failure to recognize and understand our bond to our children</td>
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<tr>
<td>Inadequate and inconsistent child support, non-enforcement of support orders</td>
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<td>Support in separating siblings</td>
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</table>
- Men given status of "head of family." Man assumes he has control
- Assumption that the woman will take on the major caregiving role
- Women prevented from continuing education, earning a living
- Lack of will to pay support
- Women gain poor credit ratings as they struggle to raise children with non-payment of child support from fathers

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<tr>
<th>INAPPROPRIATE ASSUMPTIONS OF WOMEN'S ROLES</th>
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<tr>
<td>INAPPROPRIATE ASSUMPTIONS OF WOMEN'S SOCIAL STATUS AND POTENTIAL ECONOMIC STATUS</td>
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<tr>
<td>FINANCIAL IMPOVERIZATION</td>
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</table>

- Assumption of an equality between women and men which does not yet exist
- Assumption of an equality in parental nurturing roles which does not yet exist
- Inadequate and inconsistent support orders, particularly relevant in the case of older women. Women are forced back into the workforce with inadequate or no retraining.
- Lack of effective enforcement mechanisms to uphold orders which benefit women
- Prolonging of legal proceedings until all assets are gone, usually by more than one lawyer
- System does not give poor credit rating to husbands who owe large amounts of child support
Alfieri identifies the political objective of poverty law as empowering the poor (1988, 668). While the term, "empowerment," has acquired numerous meanings, I believe that it signifies the process of neutralizing the power imbalances that exist at so many different levels within our society. It also means allowing people to take control of their lives, which in turn will allow them to take their place in society as whole individuals with a sense of self-worth.

In conclusion, it is clear that there exist numerous concerns with a traditional model of legal services for disadvantaged individuals and groups. The lawyers' use of knowledge and their language contribute to the maintenance of dependent/dominant relationships. I have specifically discussed the phenomena of interpretative violence, normalizing judgement and dependent individualization as illustrations of the many concerns within the traditional lawyer/client relationship. As such, this traditional relationship cannot respond in an adequate way to the needs of low-income and otherwise disadvantaged individuals.

This postmodern critique of the lawyer/client relationship, known as the "new poverty scholarship," has brought insights and change to the way individual progressive lawyers work, influencing their communication and practice with low-income and otherwise disadvantaged clients. These changes have occurred at an individual level without the need for a mass movement. As well, in a traditional theory of power, the "hegemony of the dominant class is virtually absolute" (White 1992a, 1503). Yet this scholarship opens up new options in the political practice of disadvantaged groups. Finally, the work of Professor Alfieri (1988, 1991) and others has legitimized postmodern thinking in poverty law scholarship.
Yet the "new poverty scholarship" is inherently limited in its narrow focus on the individual lawyer/client relationship. Professor Blasi argues that the focus must move beyond the local narrative and the local experience because the liberation of client from lawyer, "... or both from their objectifying roles, is a limited liberation indeed" (1994, 1090). While Foucaultian theory suggests that power is fluid, the scholarship does not demonstrate "how power can become congealed in social institutions in ways that sustain domination" (White 1992a, 1505). As well, White argues that because the interactions are all power defined, there is no possibility to capture other aspects of relationships such as emotions and connectedness (1992a, 1506).

Blasi also argues that the scholarship is too often critical of others - the oppressive, unreflective lawyers (1994, 1088). He notes that critical messages, however, are substantively and critically threatening especially when they attack professional identities and come from the haughty heights of law schools in the near unintelligible discourse of postmodernism. White has similar concerns and cautions that this scholarship risks "... repeating within our own theories the very 'interpretive violence' that our theories seek to move us beyond" (1992b, 856).

Lopez (1989, 1608) argues that the ideal we seek is "rebellious lawyering," in contrast to the "regnant lawyering" discussed earlier, and it is lawyering that strives to empower subordinated clients. White comments that moving to this ideal third dimension of lawyering requires the use of methods that can alter the processes of subordination, rather than merely attempt to address the problems that the processes generate (1988, 754). Eagly (1998) suggests that lawyers who engage in community legal education are working in the third dimension of lawyering. Smart argues for de-centring the law which
means to “think of non-legal strategies and to discourage a resort to law as if it holds the key to unlock women’s oppression” (1989, 5).

**Education in Poverty Law Literature**

In my review of poverty law literature, education, in any form, occupies little space. Lopez (1992) notes that lawyers do not encourage clients to state their own problems or to come up with solutions. He advises lawyers “…to design teaching methods that encourage … clients to recognize and value the problem-solving operations they already have mastered” (1992, 79). In a recent article, American lawyer Eagly (1998) describes the development of a community education program on workplace issues that would be accessible to the Latino immigrant community in Chicago. Eagly’s critique of lawyers working in the legal services system, constrained by funding and attitudes, is similar to my own with lawyers working in the Ontario legal clinic system (McDonald 1998a, 2000). She argues that education should be used more in poverty law practices.

Brustin (1993) describes the *Hermanas Unidas* (United Sisters) project for Latin American women in Washington, D.C., where women organized support groups to deal with legal and non-legal issues. Gordon (1995) describes the challenges of establishing the Workplace Project, a centre for Latin American workers on Long Island, New York. The Project offers a course for workers that was set up to provide collective opportunities for reflection that would lead to analysis and action. Gordon highlights the stark differences between the Project’s Freirian educational initiative and the “know-your-rights” workshops of legal services offices (1995, 435-436).
An article by Ontario lawyer Savage, in the now defunct *Canadian Community Law Journal* (1978), highlights the tensions facing community legal programs—individual versus group representation; casework versus organizing and education. He argues that the problem relates to “bridging the gap” between community legal services and community legal information. Bridging this gap is essential for two reasons: to use limited resources in the most effective way and importantly, to “counter the alienation fostered when a client places his or her problem into the hands of a professional.” (1978, 47) Savage describes several projects in native communities where as a lawyer, he was teaching his clients to problem solve. This article, written two decades ago, is just as relevant today.

Yet there is little recent academic literature on public legal education. Perhaps one reason for this is that education in North America is viewed as mainstream, stagnant, and state sanctioned. Or perhaps it is because education is not considered intellectually equal to the discipline of law. Or perhaps it is because if disadvantaged groups and individuals were able to analyze and think critically, lawyers would no longer be needed as the primary actors of social change. Studies in the United States in the 1970s with legal services found great underuse of public legal education (Garth 1980, 195 as cited in Eagly 1998, 442). Some reasons for this included: the perception that public legal education is not a necessary complement to litigation; and the reality that overworked legal services programs do not want to increase the demand for their limited resources.

In Ontario, a number of articles in the McCamus Report (1997) on legal aid reform do mention the issue of public legal education (see McDonald 1998a for a summary). The Report concludes that “... the demand for legal information is profound”
Cossman and Rogerson, in their submission on family law and legal aid, call for a "...greater emphasis on and availability of educational materials" (1997, 910). Charendoff, Leach and Levy (1997) comment on the growing problem of unrepresented or under-represented individuals as a result of legal aid and welfare cuts and other social and economic problems. They argue that, "[a] passive approach to legal education and information is less and less acceptable" and call for a proactive and creative attitude to the design and delivery of legal education (1997, 555). Further, in the descriptions of delivery models, the McCamus Report notes that:

...part of the mandate of community legal clinics is to engage in public legal education through community outreach work. Educating people about their rights often provides them with the confidence to exercise those rights. The ability of clinics to do this work increases clients' access to legal services because it makes them more aware of when those services might be required and useful (1997, 116).

The importance of public legal education has been recognized in the provision of legal services to low-income Ontarians, most particularly with the Ontario clinics. A number of models for the delivery of legal services were recommended and the newly enacted Legal Aid Services Act, R.S.O. 1998, c. 26, recognizes this. Staff offices, certificates, clinics, as well as public legal education are all included in section 14 of the Act as distinct delivery models. How “public legal education” (s.14(1)(h)) will be interpreted remains to be seen. The following section looks at some models of public legal education.

Part IV - Public Legal Education

The term, “public legal education,” is used in a number of different ways in Canada and internationally by both practitioners and the general public. As such, as a term, it is both vague and confusing. In my Masters thesis (1998a, 2000), I characterized
three approaches or models of public legal education: Public Legal Education and Information, Community Legal Education, and Legal Literacy. In examining the public legal education work of the Ontario legal clinics, I sought to determine which model/s the clinics used. I found no evidence of the Legal Literacy approach, although there was evidence of both the Community Legal Education and Public Legal Education approaches. While the value of any rigid categorization of approaches can be debated, this framework may provide a beginning for debate on public legal education. These models do share similarities and cannot be seen as entirely distinct.

A Note on Terminology

I will use the term “public legal education” without capital letters to mean education about the law that is for the public, as opposed to legal education for lawyers or law students. The specific model or paradigm, “Public Legal Education,” will be distinguished by the use of capital letters. Similarly, “Legal Literacy” with capital letters will denote the specific model.

The writing and work on public legal education does not generally discuss learning, informal or formal. This terminology is used in the literature on trauma and learning and as such, a short review of informal learning literature will be presented in that section.

Public Legal Education

General

While public legal education has existed for many decades, it was only in the seventies that a cohesive movement was formed in Canada. In 1971, Copeland and Ruby
published *Law, Law, Law*, a layperson’s guide to the law, and in 1972, the Vancouver People’s Law School was established as the first organization in the country with the primary purpose of providing public legal education activities. Throughout this decade, public legal education activities expanded through legal aid societies, government, law schools, and private organizations (see Gander 1984). Almost three decades later, while a great amount of materials has been produced, there remains very little literature on the theoretical premises of public legal education.

Public Legal Education and Community Legal Education are the terms most frequently used in Canada. The Access to Justice Network (www.acjnet.org) provides a directory of 22 Canadian public legal education organizations.

There is a large range of public legal education organizations. For example, there are groups who are mandated to create, distribute and present legal information materials and fund, facilitate and train others to do so. As well, there are groups who also provide legal information as part of their work, although it is not their primary activity.

The Access to Justice Network also provides an online catalogue of six public legal education resource centres across the country. There are thousands of titles in these collections, mostly project reports, guides, manuals, or brochures on legal topics written in plain language for various audiences. There appears, however, to be little written on for example, different models of public legal education, underlying theories, appropriate pedagogy, or legal education needs assessment. Another limitation is that much of this work dates from the 1980s.

Some years ago, Brickey and Bracken noted this lack of literature with respect to legal needs in general:
...there is no substantial body of information available on the current state of knowledge and utilization of law by Canadians. In developing a set of conceptual categories of legal needs, the authors have been forced to rely on anecdotal information, opinions, and speculation when discussing types of legal needs (1982, 1).

Gander (1984, 4) echoes this sentiment in her report entitled, *Towards a Taxonomy of Public Legal Education*. The three sections in her report explain why a taxonomy should be of assistance, the methodology used in the study, and the results. She presents classification schemes for public legal education activities and develops a scheme wherein these activities can be categorized according to their purposes, audiences, subject matter, approaches, outcomes, and structures (1984, 11-17). While the author herself acknowledges the limitations of such a taxonomy, Gander’s work does bring some order to a much practised, but little discussed area.

For example, the author identifies three classes of needs/services in her report:

- **Remedial services** – information and advice; services dealing with a specific, immediate, isolated problem; often crisis needs.
- **Rehabilitative services** – the problem and solution lies within the individual; services are directed toward improving an individual’s ability to cope with a problem; and to develop skills, knowledge, and confidence to become actively involved in the legal process.
- **Services to address systemic problems** – the problems and the solutions lie within the legal system; the impact of services is directed toward removing the source of the problem. (1984, 16-17)

A Department of Justice report entitled *Access to Justice* (1986) provides an international review of public legal education in developed countries. It found that activities/projects could be categorized into two general movements: the Plain Language Movement (1986, 37-54) and the Public Education Movement (1986, 55-82). Those activities/projects that have been distinguished as the Plain Language Movement focus solely on the use of language to make the law accessible. I have chosen to consider the Plain Language Movement as one aspect of public legal education in general.
The Plain Language Movement

Law is generally considered to be very technical and difficult to read and understand without specific training, whether it is legislation, principles, court decisions or documents. The Plain Language Movement (Access to Justice 1986, 38) developed out of the consumer protection movement and has the goal of presenting to the citizen all the necessary legal documents in common, everyday language so that they can be easily understood. It represents the first effective effort to change the language of legal documents from the traditional legal prose to a language that the average lay person can comprehend.

The Plain Language Movement has different approaches with different results:

1. A one tiered system whereby the law is enacted in plain language;
2. A two tiered system whereby the law is enacted in legalese, but the relevant portions are translated into plain language and made available to the general public (through government or private companies); and
3. A system whereby the law is stated in technical terms, but the operational documents, such as contracts, are written in plain language. (1986, 38)

Over the past decades, there has been an increasing awareness of the role that language plays in making the law accessible or not to the public. This may be due to a number of factors – the spread of postmodern ideas, the increased strength of consumer groups, or the increase in public legal education. Regardless of the reasons, plain language has become a basic component of all public legal education activities/projects and this is evident particularly in the written materials which are produced for these initiatives.

Public Legal Education and Information (PLEI)

The most common term used in Canada to describe “public legal education” is Public Legal Education, with “and Information” often added. The Access to Justice
Report identifies the main objective of Public Legal Education and Information programs to be: the provision of information to the public 1) as to their rights and obligations, and 2) as to the manner in which they could go about to ensure that these rights remain inviolate and these obligations are fulfilled (1986, 87).

Dykstra argues that the market for Public Legal Education and Information is not the disadvantaged, but rather any individual who may need legal information (1983, 31). She presents an ideal citizen model and argues that there is an inherent consumer component in the Public Legal Education and Information model. It is a means to an end and the desired outcome is important for it will have implications for the methods used (1983, 29).

The desired outcome of PLEI activities/projects is legal literacy. Dykstra uses the term legal literacy to mean “access to information on the law, both a knowledge of the broad principles as well as the specific rights and responsibilities” so that “people [can] avoid some of the more common legal problems” (1983, 29). She argues that there are three assumptions underlying legal literacy:

1. An individual needs an understanding of the law and the legal process in order to function effectively on a day-to-day basis and in order to carry out his or her responsibilities toward the legal system.
2. The legal process itself requires an informed and involved citizenry if it is to function democratically, and if it is to continue to ensure a legal system that is responsive to the needs, concerns and priorities of the nation.
3. The people, collectively and individually, do want and will use information on the law and legal process.

Dykstra’s use of the term differs from the meaning of the term, “Legal Literacy,” which will I present later in this section.

Absent in this approach is any analysis of the role of the state or the legal profession, any community development, or any questioning of the legal system and particular legislation. I suggest that the Public Legal Education and Information model
cannot be classified as the neutral dissemination of information. By not recognizing the limitations of Canada's legal system and the remedies it offers, and questioning the impact of legislation and the system on individuals, these PLEI activities/projects inadvertently support the status quo. Yet in the model itself, there is no presentation or acknowledgement of this support or perspective.

A study by Manley-Casimir, Cassidy and de Castell (1986) provides an overview of the literature. Ianni (1979) looked at Public Legal Education activities/projects in Canada and identified the provision of information as one of the main goals. As "information would assist the individual in recognizing potential legal pitfalls and the gravity of a problem once it has arisen," activities/projects should cater to specific audiences (1979, 6).

Gagnon's working paper (1985) for a legal education conference called for public education on the law and the demystification of the legal system. The author looked at the legal needs of the individual public and the collective public (1985, 8). This categorization, however, was not further refined. He also introduced the concept of ignorance:

> Our legal system presumes an informed public. Citizens are expected to participate in the making of laws and in their implementation. Citizens are further expected to understand and act upon their legal rights and obligations. Ignorance of the law is not a defence or excuse for the commission of an offence. The effective operation of our legal system presumes knowledge of solutions. The law must be understood in order to be viewed positively and to be supported by the public (1985, 3).

Rivard suggests "... that school programs should function as a primary source of public legal education," but also contends that schools cannot meet the needs of every individual (1980, 34). Bain (1981) examined the public's need for legal information and
education programs from both the needs of the legal system and the needs of the individual.

*Access to Justice* classified the different public legal education projects/activities in terms of their approaches. Public Legal Education and Information projects adopt the didactic approach, when the program is mainly information giving and designed to reach as many as possible in one sweep. In these cases, it is decided that a need for a certain type of information exists - and such a need may exist in the group - but no consideration is given to the needs of the individual at that particular moment (1986, 86-87).

The report categorized Public Legal Education activities as follows:

1. preparation and distribution of pamphlets, booklets and the like, providing information on one or more topics;
2. organization of information-giving radio and television programs as well as newspaper and magazine columns;
3. organization of lectures, meetings, seminars and conferences discussing one or more legal topics for the purpose of information giving;
4. organization of adult education courses through continuing education systems;
5. organization of a telephone hotline which citizens could contract to either receive information available on a pre-recorded tape or obtain advice on a specific program;
6. preparation and distribution of do-it-yourself literature kits;
7. organization of do-it-yourself courses; and
8. incorporation of law related education material into the curriculum of high schools (1986, 86).

Many of these methods may also be employed in Community Legal Education and Legal Literacy initiatives with different objectives.

The *Access to Justice* report identifies two possible outcomes of Public Legal Education: service expansion and prevention. These two outcomes may be seen to be contradictory.

Regarding the outcome of service expansion, Public Legal Education and Information activities/projects may be designed to promote the business of the legal profession. In the private sector, PLEI can be used as a marketing tool. In the public sector, PLEI can be used to raise the profile and public awareness of the services offered
by the legal clinic or office. Where service expansion is desired, then there may be less focus on appropriate pedagogy, as the goal is that the client seeks out the services offered and very little information will need to be retained by the potential client.

Where the second goal of prevention is predominant, there may be a greater focus on appropriate pedagogy. Those designing the PLEI activities/projects will want to ensure that adult learning and retention are maximized.

In sum, the defining characteristics of the Public Legal Education and Information model include: information dissemination; a didactic approach; content and process oriented information; no explicit perspective/bias acknowledged; and little or no participation of the audience during the different stages of the project.

**Community Legal Education (CLE)**

The Community Legal Education model is based upon the goal of community development as defined by the needs of the community. A body of literature has existed for decades on community education (Clapp 1939; Olsen 1945; Irwin and Russell 1971; Minzey and LeTarte 1979), yet there is an absence of literature explicitly on Community Legal Education. Warden (1975, 28) hoped that community-based study and action could provide active opportunities to develop solutions to local problems and also to assist the learner to grapple with the “deeper meaning of life.” These local problems would deal with legal issues, but framed within the social, political, and economic context of the local community.

In the literature from Australia, Community Legal Education appears to be the more common term for describing “public legal education,” although it is mostly used in
the context of legal aid. Discussion around public legal education began in the mid to late seventies and focused on whether Community Legal Education should be part of legal aid and also what are the purposes of Community Legal Education. Professor Sackville (1975, para. 5.23) wrote of the lack of Community Legal Education as being a deficiency in legal aid services. He identified two objectives of Community Legal Education: 1) increased awareness of one’s legal rights; and 2) increased use of lawyers for preventive rather than remedial purposes.

Writing twenty years ago, Keon-Cohen (1978) saw Community Legal Education as important to meet future legal needs of Australian society. The author summarized the broad objectives of Community Legal Education as:

**1. Social/legal (conceptual level)**
   a) To increase public knowledge and understanding of, and inculcate desirable attitudes to law, lawyers and the legal system.
   b) To encourage participation in the legal and political process.

**2. Educational (practical level)**
   a) To develop analytical ability (through the study of law at any educational/institutional level).
   b) To develop specific legal skills.
      i) Recognize a legal problem when it arises.
      ii) Gain access to legal advice or the legal system.
      iii) Satisfactorily resolve for him/herself his/her own legal problems.

Mr. Justice Kirby (1983, 75) saw Community Legal Education as essential to ensure that citizens of a democratic society would understand the role of law, its general principles, and to participate in the making of law. Herron and Slattery (1985, 68) summarize the debates and note that despite discussion and writing and much practical work, the purpose of Community Legal Education remained unresolved. There are those who hold the view that CLE is an ancillary activity, secondary or subservient to casework and that the solicitor/client relationship is the best form of Community Legal Education. On the other side are those who view CLE’s purpose to be individual (or collective)
empowerment and to raise community consciousness of the law; casework is limited and perpetuates the relationship of dependency between solicitor and client. Commenting on this latter view, the Access to Justice Report cites the Australian Director of Legal Aid, Legal Aid Commission:

Much has been said about providing persons with the intellectual equipment to challenge and question the law, but however admirable an objective that might be, it is too rich a fare for most people who are neither lawyers nor academics. In fact, I am too often left with the impression that persons who discuss community legal education in Australia have no idea what the needs of ordinary persons or indeed disadvantaged persons are (1986, 89).

Similar issues have been debated in the context of legal aid reform in Canada, and specifically Ontario (see McCamus 1997).

The Access to Justice Report describes the community approach: "... the particular needs of a particular community at a particular time dictate the nature of the educational program to be prepared for them" (1986, 87). The needs of the community are taken into consideration when planning and designing programs. Participatory research may be employed in order to assess these needs (see for example Zalik 2000). Paralegals, educators, social workers and community members would work together at each stage of these projects. As the community is defining its particular needs, these projects may not be useful to the general public. Desired outcomes may include: community development, social action (if not change), organization, and individual and collective empowerment.

Community Legal Education projects seek to improve the existing legal system and make it work better and more effectively for the community. The law is seen as a powerful tool and legal strategies such as litigation, advocacy and law reform remain predominant components of the work. Yet at the same time, lawyers may play less of a leadership role and work more in collaboration with others.
In the Community Legal Education model, there is also a focus on education and learning. Practitioners will have an understanding of the principles of adult learning which are incorporated into projects. For example, Brundage and Mackeracher (1980) list these basic learning principles:

1. Adults enter learning activities with an organized set of descriptions and feelings about themselves which influence the learning process. The description is the self-concept; the feelings are the self-esteem.
2. A teacher working with adults needs to know how s/he personally conceptualizes adult learners as well as how the individual adult learners conceptualize themselves. In cases where the two conceptualizations are incongruent, the teacher should pay more attention to the learner’s description of her/himself.
3. Adults with positive self-concept and high self-esteem are more responsive to learning and less threatened by learning environments. Adults with negative self-concept and low self-esteem are less likely to enter learning activities willingly and are often threatened by such environments.
4. Adults are more concerned with whether they are changing in the direction of their own idealized self-concept than whether they are meeting standards and objectives set for them by others.
5. Adults react to learning experiences or information as they perceive it, not as the teacher presents it.
6. Adults learn best when there are activities which allow them to organize and integrate new learnings into their self-concept.
7. The teacher of adults should be able to model behaviour which is relevant to the role of learner. This includes: valuing the role of learner as an integral part of living and as important as work; social and family roles; using learning-how-to-learn strategies; valuing and using one’s own past experience as a resource for current learning; and valuing the role of learner as a responsible status within society.
8. Adults learn best in environments which provide trusting relationships, opportunities for interpersonal interactions with both the teacher and other learners, and support and safety for testing new behaviours.

There would also be an understanding of different pedagogies and their goals.

One recent example of Community Legal Education is the Law Courts Education Society of British Columbia and their Comparative Justice Systems Project (1994). Seven cultural communities engaged in participatory research to design the content and format of legal information appropriate for each community and “cultural sensitization training to service providers within the court system” (Project Report 1994, 5). Underlying the project is the assumption that, “[l]egal education within these communities needs to start
from the experiences and knowledge base of these communities.” (1994, 5) As a result, the members of each targeted community were involved at every stage of the project.

Some of the legal clinics in Ontario engage in Community Legal Education initiatives (see McDonald 1998a). Most, however, provide Public Legal Education and Information.

Hence, the important aspects of Community Legal Education include: the community involvement in the projects (defining needs, planning, designing and executing, and evaluating the work); participatory research; being part of a larger development plan; taking into consideration principles of adult learning; and innovative approaches to learning.

Legal Literacy and Alternative Legal Services

Legal Literacy is a model that has been used in many developing countries in struggles for social justice. This model may be used by Alternative Legal Services organizations, which began appearing in Latin America around 1975.

Alternative Legal Services

Alternative Legal Services refer to the practices of individuals and groups who use law as one of many tools in social movements which seek to bring about social change (Ardila and Clark 1992, 107). Rojas describes the underlying goals:

These groups seek to either promote or directly introduce social change. As pursued by ‘new’ legal services, social changes means imposing a new concept of justice. Although it is not yet precisely defined, justice is not understood in liberal/individualistic terms: the new idea of justice usually means replacing all or part of the liberal legal system by a different one. This new idea of justice is based on solidarity more than competition. It seeks to substitute real equality for formal equality. The emergent idea of justice is closely tied to current struggles for a new democracy in the subcontinent. Although the
concept of new democracy has not yet been fully spelled out, it is based on a combination of collective and individual (as opposed to merely individual) freedom (1988, 209).

These Alternative Legal Services originated within a different social context than that which exists in North America (Rojas 1988). First of all, in many Latin American countries, the levels of poverty and inequality of income distribution accentuate the difficulties of access to justice. Second, cultural factors increase the need for new legal services: ignorance, lack of confidence, low literacy levels, *machismo*. Third, the social stratification of the lawyer is even greater than in North America. There are also more rigid social, economic, and psychological barriers to accessing legal services. Finally, the political character of these countries has played a significant role.

Alternative Legal Services use traditional instruments, as well as educational and political tools, in the attempt to create parallel political and social power in the hands of minority or oppressed groups. They seek to stimulate self-confidence, self-awareness, and active participation. Lawyers and beneficiaries work at the same level to eliminate the hierarchical position of law and lawyers, and at the same time to demystify the law.

The general goals of these organizations can be summarized as follows (Rojas 1988): to increase grassroots power and challenge the existent social structure; to increase participation and strengthen gender and economic equality; to promote the creation of an alternative legal system; to protect low-income groups; to create the necessary conditions for equal access to justice; and to discover the political nature of law so that they are more concerned with development than with law reform.

One key factor which must be stressed is the relative autonomy of these alternative legal services. Many were formed during military regimes which restricted
citizens' fundamental rights and were in direct conflict with the state. These organizations would receive funding from non-governmental (often international) sources and as such, would enjoy greater autonomy to pursue their objectives. They were not created within the state apparatus as the Latin American welfare state has never achieved the extent or quality of goods and services as in North America. These groups work in direct opposition to the state. It is important to also note that the various groups continue to struggle to define themselves and their role in Latin America, especially as the political context has changed dramatically during this decade.

As their goal is to challenge the capitalist legal system and introduce a new social order, education is used as a tool to achieve that end. These organizations place an emphasis on popular education, paralegal training, sociological research, and organizational activities.

The Legal Literacy Model

Literature using the term "legal literacy" is scarce and when it is used, it has a variety of meanings. As noted earlier, Dykstra (1983) uses the term to denote an outcome, a goal of Public Legal Education and Information activities/projects. A Canadian Bar Association Task Force Report, Reading the Legal World (1992), examines the relationship between literacy and the law. Manley-Casimir, Cassidy and de Castell examined the concept in a 1986 report entitled, Legal Literacy: towards a working definition. The study used a survey and other submitted documents to review the then current conceptions of legal literacy. The authors also examine alternative approaches to the study of literacy in general and propose a working definition for legal literacy.
Legal literacy is used in these works to mean the state of being literate in law, its content, procedures and institutions. In contrast to this, I will present the term as meaning an educational process.

Exactly when and why the term Legal Literacy was coined is unclear, but it appears to be most widely used in international development projects. At the 1985 United Nations Women’s Conference in Nairobi, a “Know Your Legal Rights” campaign was initiated to work towards:

[Empowering women throughout the Third World. Such a campaign should include popularizing the language of the law by using mass media and other strategies to demystify the law, and make it more accessible... and working toward an ‘alternative law’ which maximizes women’s rights and is drawn from the language, reality and experiences of the vast majority of Third World peoples (Schuler 1986, 428).

This initiative was followed by a collection of papers in a book devoted to the theory and the application of the concept of Legal Literacy entitled, Legal Literacy: A Tool for Women’s Empowerment (1992), edited by Schuler and Kadirkamar-Rajasingham. The work is important in that it seeks to clarify many terms and consolidate a framework for Legal Literacy. The editors define Legal Literacy as, “the process of acquiring critical awareness about rights and law, the ability to assert rights, and the capacity to mobilize for change.” (Schuler and Rajasingham 1992, 2) The goals of this process are to generate alternative approaches to law. This includes retraining lawyers to relate to the community in new ways and develop skills as educators.

The definition of Legal Literacy reveals its multidisciplinary nature. The process draws upon theories and practices of law, learning, and political and social change. Mobilization, lobbying, and law reform are important components of any Legal Literacy
initiative. Legal Literacy involves many levels of society, and has both long and short
term goals. This provides an exciting dynamic, but also presents tensions and challenges.

As with literacy, there are two myths surrounding Legal Literacy. The first is that
being aware of one’s rights and responsibilities will ensure the enjoyment of those rights.
This myth promises an outcome that is impossible to deliver. The second myth is that
legal remedies, whether litigation and a declaration from the court or law reform and the
passing of a new law, will automatically lead to social change. A naive faith in these
myths hides the complexity of the problems and distracts from alternative and critical
approaches.

The Legal Literacy model challenges unequal power relations. These power
relations are rooted in the political, economic, social, and legal fabric of any society. In
order to attempt this, individuals must develop critical and political capacities. There is a
need to know not just what the law says, but also to develop skills to participate fully to
define rights, not just to assert them. Most importantly, Legal Literacy is not limited to
disseminating information about the law, but it is about “developing capacities to use law
and rights as a political resource and to gain skill and power needed to effect positive
change” (Schuler and Rajasingham 1992, 49).

Summary

I have outlined three different models or paradigms of public legal education that
have appeared in the literature. The Alternative Legal Services of Latin America and
other developing countries employ the Legal Literacy model. In Canada, the more
common models are Community Legal Education and Public Legal Education and Information.

A critical consideration must be for whose benefit do these programs exist (Access to Justice 1986, 93). In the Legal Literacy and Community Legal Education models, the educational initiatives are designed to meet the needs of the beneficiaries of the program. In the Public Legal Education model, it would appear that they are designed to reinforce the illusion of legitimacy, of infallibility and of necessity of the law, of the justice system and of the legal profession as they exist (Marks 1971, as cited in Access 1986, 93). Both exist and it is important to acknowledge the perspective.

Thus, those that engage in public legal education must be aware of whether their work is designed to promote and support the existing legal system or to develop a better legal system. In the case of Public Legal Education and Information, it would appear to be the first goal. In the case of Community Legal Education and, it would appear to be the second goal. In the case of Alternative Legal Services, their goal is a different system altogether.

Part V – The Context

This section provides an overview of the context of this study. The first part presents recent statistics on domestic violence in Canada. The second part describes the community agency where the research will occur, the Centre for Spanish Speaking Peoples in Toronto. The third part describes the legal services available for immigrant women who have experienced domestic abuse, primarily the former Ontario Legal Aid Plan.
Domestic Abuse in Canada

In Canada, 1,435 women were killed by their male spouses between 1974 and 1992 and one sixth of currently married women have reported violence by their spouses (McGuire Associate Consultants 1996, section 2.1). Statistics Canada now publishes a report entitled, Family Violence in Canada. It bases its findings on a number of studies including the 1993 Violence Against Women Study which was the first and largest of its kind, interviewing 12,300 women across Canada. One of the criticisms of this study was that it did not reach women who speak neither French nor English and thus does not speak to the prevalence of violence against women in other language groups (Davis-Barron 1993).

A recent Family Violence in Canada report noted that in 1996, almost 22,000 cases of spousal assault were recorded; 89% involved female victims and 11% involved male victims (1998, 6). Seventy-two percent of women were still in a relationship, while 28% were victimized by an estranged or former spouse. The report cautions that these figures are not nationally representative and only represent cases reported to the police.

Only a minority of spousal assaults are reported to the police. In the Violence Against Women Survey (1993), 29% of ever-married women (including those in common-law relationships) reported having been subjected to violence at the hands of a marital spouse at some point in the relationship. Most frequently, women reported multiple acts of violence such as being pushed, grabbed, shoved, slapped or having something thrown at them. Smaller numbers reported being victims of violent acts such as sexual assault, choking, being hit with an object or having a gun or knife used against them. The table below summarizes these findings from the study.
The vast majority of crimes against spouses that were reported were physical assaults, where 75% against women were common assault or assault level 1 (assault which does not involve a weapon or cause serious physical injury) and 12% were assault level 2 (assault with a weapon or causing bodily harm). Criminal harassment accounted for 7% of reported crimes against female spouses and other violent crimes account for 6%. These include: aggravated assault, assault with a weapon, discharging a firearm with intent, all sexual assault offences, kidnapping, hostage taking, abduction, robbery, extortion, homicide and attempts, criminal negligence and other violations causing death (1998, 7).

Police laid charges in 84% of the cases reported to them. In 11% of cases, victims refused to lay charges and in 5% of cases, the case was cleared for other reasons (1998, 7). The *Violence Against Women Survey* (1993) revealed that women were three times as likely to report incidents to the police if their children had been witnesses, four times as
likely if a weapon was used, and five times as likely if they feared for their lives. But almost half of all women who feared for their lives, did not call the police. Nor did 57% of women who were injured, nor did 51% of women who were assaulted more than ten times.

In her research, Crenshaw (1991, 1252) found that the Los Angeles Police Department refused to release statistics on domestic violence interventions by precinct which would indicate roughly incidence by racial group. Similarly, no such statistics are available in Toronto. Statistics are available from ethno-specific women’s organizations that provide services to women who have experienced domestic abuse. For example, five hundred new clients used the services of the Women’s Program of the Centre for Spanish Speaking Peoples and 4,000 hours of service were provided in 1997-98 (Annual Report 1998). In 1998-1999, 550 clients were served and in the first three months of 2000, 102 new clients were served (Women’s Program statistics). Anderson believes that the rate of domestic abuse for immigrant women is probably high (1993, 1403).

In DeKeserdy’s book, Woman Abuse on Campus (1998), the author discusses the tension between practitioners who argue that research is irrelevant to their provision of services and researchers. Practitioners feel the competition for the allocation of scarce resources and believe funding should go to direct services. Yet no funding body will be convinced that the problem is serious and widespread because front-line workers say they “know.” There will be no funding without better data, for even rigorous qualitative studies are discounted as being unrepresentative (DeKeserdy 1998, 8).

In 1995, the Centre for Research on Violence Against Women and Children in London, Ontario, published its research Selected Estimates of Costs of Violence Against

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fires do not add to totals for multiple reasons.
Women. The Centre looked at the annual economic costs of domestic violence (as well as sexual assault and child sexual assault) in the four policy areas of health, criminal justice, social services/education and labour/employment. The study distinguishes different costs: state costs, personal costs and third party costs. While data are incomplete, estimates were calculated (Hankivsky, Greaves, Kingston-Rieches 1995, 2):

- Health - $408,357,041
- Criminal Justice - $871,908,583
- Social Services/Education - $2,368,924,298
- Labour/Employment - $576,764,400

- TOTAL $4.2 billion of which 87.5 per cent is state costs.

There are costs in many other areas including poverty, homelessness, lost educational/employment opportunities, loss of safety and self-esteem and difficulty with future relationships.

Economic analyses cannot fully capture the psychological and emotional costs of abuse against women. Yet given the environment of cutbacks to social services evident at all levels of government in Canada, these estimates are timely. They illustrate the need for government sponsored prevention and services in the area of abuse against women (Hankivsky 1998, 88). As well, the estimates clearly indicate that woman abuse is a significant social problem in Canada.
The Centre for Spanish Speaking Peoples, Toronto

The Centre was established in 1973 and incorporated in 1974. It receives its funding from a number of sources including: Citizenship and Immigration Canada, Health Canada, Canadian Heritage, Ontario Legal Aid Plan, Ontario Ministry of Community and Social Services, Ontario Ministry of Health, Ontario Ministry of Citizenship, United Way of Greater Toronto, City of Toronto, Trillium Foundation, and the Rainbow Foundation. There is some funding from other sources: private donations, membership and fund raising events.

The Centre is a non-profit corporation with charitable status. A volunteer board of directors is elected annually by the membership. There is a collective structure whereby all staff participate in the decision making and share equal responsibility for the Centre. Recently, a part-time co-ordinator, who is not part of the collective, was hired to provide administrative support and liaise with the board and funders. The Centre provides a number of services to the Spanish speaking community of Greater Toronto including: settlement, language training, HIV/AIDS prevention and support, legal services, and support services for women who have experienced domestic abuse.

The Settlement Program aims to make the settlement experience a positive one for newcomers. It provides assistance with translation, interpretation, support counselling, preparation of documents, escorting to meetings, referral and advocacy in areas such as employment, housing, immigration, health, education and training. In 1997-98, the Program served 1,161 new clients and 590 returning clients.

The Language Training Program provides newcomers and older adults with English as a Second Language classes in order to acquire language skills that will
facilitate their settlement. Specialized English classes, such as Business English, are also offered. The Program also offers Spanish classes for Canadians.

The HIV/AIDS Program focuses on prevention and support for people with HIV/AIDS. The work focuses on the dissemination of information and resources about healthy sexual behaviour using education, counselling, and support groups. In 1997-98, outreach was increased to parks, Latin bars and other public places. A training of youth to promote healthy sexuality was also completed. There is also an art therapy group.

The Legal Clinic provides legal assistance to the low-income Spanish speaking community. The vast majority of the Legal Clinic’s work falls under the category of direct services, that is summary advice and casework, usually representing individuals with legal problems. The Legal Clinic also does outreach work, or more particularly known as public legal education (also referred to as community legal education), community development, and law reform.

The Legal Clinic has three full time staff members: a lawyer, a community legal worker and a legal secretary. Areas covered include: housing, income maintenance (employment insurance, workers’ compensation, social assistance), immigration, consumer and some civil issues. The Clinic does not cover family or criminal issues, as these have always been covered by the private bar and the judicare model.

The Women’s Program was established in 1981. There are three full time staff members who are called counsellors. The program offers support to Spanish speaking women who suffer abuse in their relationships with their male spouses, creates awareness about violence against women, and sensitizes the community at large. Importantly,

[The Program acknowledges that violence against women is a cruel and hidden transgression of human rights which affects women of all ages, social classes and culture. Violence constitutes a barrier to the]
realization of women’s goals, and we must work to eradicate it (Program pamphlet 1998).

The Program has the following objectives:

- To respond to the needs of women in an atmosphere of trust and according to individual needs by providing crisis intervention and ongoing counselling.
- To provide women with information about their legal rights, existing resources and how to access them.
- To help diminish women’s isolation by bringing them together, thereby facilitating mutual support and enhancing their understanding of the dynamics of abuse.
- To share information and resources with community organizations and front-line workers in order to provide co-ordinated services for Spanish speaking women who suffer abuse.

The Program provides individual counselling, group counselling, support groups for women and children affected by violence, orientation and information about legal rights and court escorting, and telephone and in-person crisis counselling.

On average each year the Program serves five hundred new clients and 4,000 hours of service are given. The Program has a number of support groups and workshops including: Conscious body, happy body; Mothers and Children Dealing with Violence; Arpillera Group in Harbourfront; Violence against Women; and the Community Garden.

Legal Services in Ontario

For women who have experienced domestic abuse, the legal options available to them represent a labyrinth. If women choose separation and/or divorce, there are legal issues with respect to custody and access to the children, support, division of property, interim and permanent exclusion from the matrimonial home and restraining orders. These issues fall within the ambit of family law. If charges are filed against the abuser, criminal or tort law will play a role. Women may also come into contact with the law over social assistance, housing and/or immigration.
While violence against women does cut across class lines, many women upon separation from their spouses have no, or insufficient independent income to enable them to retain a lawyer (Report of the Family Law Tariff Review Subcommittee 1992, 4). To understand the nature of the legal services available to women who have experienced abuse, it is necessary to look at the Ontario Legal Aid Plan (now Legal Aid Ontario) and the services it can provide. In doing so, a brief history of legal aid in Ontario will provide an appropriate framework to understand the role of the state.

Prior to the 1950s, those who could not afford to pay for legal assistance were dependent upon the charity of lawyers to provide their services on a "pro bono" basis, or free of charge. At best, it was a patchwork approach with some assistance by the Attorney General's office to individuals charged with capital offences. Reilly (1988) and Cormier (1990) trace the history of legal aid as a charity in Ontario.

When England enacted its Legal Aid and Advice Act, 1949, the Law Society of Upper Canada followed suit with the Law Society Amendment Act, 1951, and introduced a very limited form of legal aid which was restricted by several financial eligibility requirements, little government funding and voluntary lawyer membership.

The provision of legal aid in Ontario had two distinct stages of development. In the first stage, it was believed that the lower socio-economic classes should have the right to legal counsel equal to that of the client who could afford to pay. Two goals fuelled this thinking: one substantive and one procedural. First, substantively, poverty was wrong and could be alleviated through legal advocacy. Second, procedurally, legal representation was a necessity, especially in situations where an individual was against the powers of the state. This line of thinking led to the development of judicare, also known as the
certificate system. This model mirrors the private bar; those who qualify receive a certificate which entitles them to the services of a lawyer to resolve the particular issue. It was originally thought that giving everyone "access to justice" would create equality (see Abel 1982, 1985; Cappelletti 1981).

In the early days of the Ontario Legal Aid Plan (OLAP, the Plan), it covered some civil matters and criminal matters where the accused had been charged with an indictable offence. Membership was voluntary and during the fifties, there was an overwhelming lack of lawyers offering their services. The Plan was also limited by severe financial eligibility requirements and little government funding. In 1963, a new committee of the Ontario government and the Law Society was struck to study the problem and, significantly, it recommended that lawyers be paid by a tariff that would be administered by the Law Society and funded by the provincial government. The result was the Legal Aid Act, 1967, R.S.O. 1967, c.80, which transformed legal aid in Ontario from a system dependent upon charity to a publicly funded right.

The inadequacies of the certificate system administered by the Plan became apparent as the underlying assumptions inherent in this model were proven far from accurate. It had been assumed that the problems of disadvantaged groups and individuals were similar to those of the middle and upper classes. As such, the resolution of these problems would also be through similar means. The problems of disadvantaged groups and individuals, however, are the product of complex historical, political, economic, and social structures and rarely can they be resolved through these means (see Wexler 1970).

Recognizing this, the certificate system, was clearly inappropriate. It allowed for formal equality, but the goal of substantive equality remained elusive. This development
in theory led to the conception of a legal aid model that was intended to be sensitive to the needs of marginalized groups. Focus shifted from “equality of access” to “equality of outcome and benefit;” it would be necessary to deal with the legal problems of disadvantaged groups on a more structural basis.

This development in thinking led to the establishment of legal clinics in the early seventies, such as Injured Workers’ Consultants or Parkdale Community Legal Services. The Parkdale clinic was funded by grants from York University, the federal department of Health and Welfare and the Council for Legal Education for Professional Responsibility. In the beginning, these clinics were outside the auspices of the Ontario Legal Aid Plan. They were independent clinics offering a new kind of legal aid service based upon several underlying principles. The clinics developed as an alternative to the certificate model and focused on the needs of the poor, the need to involve the community in decisions, and clinic independence. After the 1978 Grange Report and its recommendations, the Ontario Legal Aid Plan adopted a mixed delivery model that includes both the certificate and clinic systems.

This discussion will focus on family law although it is recognized that women who have experienced domestic abuse have many different legal issues. Cossman and Rogerson provide an excellent and comprehensive review of family legal services for low-income Ontarians in the McCamus Report (1997, 773). Family law is extremely complex in Ontario with three different court systems (General Division, Provincial Division and Unified Family Court), as well as mediation to resolve disputes.

Today the legal clinics work in areas that are not practised by the private bar: social assistance, employment insurance, pensions, workers’ rights and compensation,
housing, and some immigration and refugee law. The predominant model in the legal profession is the private practice and as such, the clinics cannot be seen to be taking and cannot take business away from the private bar. For example, Aboriginal Legal Services of Toronto, founded in 1990, sought funding from Clinic Funding to provide criminal and family law services, but this was denied (Rudin 1997, 454). Similarly, the Centre for Spanish Speaking Peoples sought a family lawyer in its 1999 clinic funding application, but was also denied.

There are a few clinics which have received authorization to practice family law. The Barbra Schlifer Commemorative Clinic in Toronto received funding in 1999 to provide increased legal services for women who have experienced abuse. Specialized Legal Services offers women services in family, immigration and criminal law matters. The legal clinic in Moosonee also provides some family law services. Simcoe Legal Services Clinic proposed a family law project in 1991 to the Legal Aid Committee in response to the lack of family lawyers in the region who would take legal aid certificates. The Committee responded with alternatives (the Green Form advice scheme, payment of travel costs) which were in place until OLAP withdrew most family law services in 1996. In response to this, the clinic put together a series of self-help guides with the (Unified) Family Court. Community Legal Education Ontario has now developed and published self-help guides for this court which incorporate new rules and simplified language brought into effect September 15, 1999. Unfortunately, there is not yet a Unified Family Court in Toronto and individuals must use the Superior Court of Justice or the Ontario Court of Justice depending upon the issues involved.
The Conservative government, which came to power in 1995, immediately cut funding to the Ontario Legal Aid Plan. As a result, in 1996/97, only 80,000 certificates were budgeted. This marks a 41% decrease from 1995/96 and a 65% decrease from 1992/93. Beginning April 1, 1996, only highest priority family law cases received coverage. Coverage was limited to cases where it was necessary to protect the safety of a spouse or child, to protect an established parent child bond, to provide support for parents with no income and to defend access in cases of abuse. There was no coverage for divorce. As well, there was no coverage for changes to support orders and support orders for welfare or family benefits recipients.

Along with cuts, the Ontario Legal Aid Plan instituted a $25 administration fee which was due upon application for a legal aid certificate. This fee was waived for those in receipt of welfare or family benefits; it was not waived, however, for those who were homeless or in shelters. This fee acted as a real barrier to access and disproportionately affected aboriginal people who are over-represented among the homeless and those in transition shelters. It was eliminated on April 1, 1998.

The OLAP 1998 Annual Report states that “[t]he human cost of this decline in legal aid certificates has been staggering” (1998, 3). The Report further notes:

People are going unrepresented in court in both criminal and family matters; in family law, they are now unrepresented as well in the preparation of the often complicated documents that must be filed with the court to get procedures started. These unrepresented people in family law are predominantly women, and many of them face former spouses who are themselves represented (1998, 4, emphasis added)

As of April 1, 1998, family law coverage increased. Coverage is now available for most variations of support, but still not available where the legal aid certificate applicant is in receipt of social assistance. This impacts disproportionately low-income women.
Their access to the private bar is dependent upon the goodwill of lawyers who accept legal aid certificates for other family law issues and will also do the support work.

Women with limited income who have experienced domestic abuse and who require legal assistance in family law have few options. If the Barbra Schlifer Commemorative Clinic’s waiting list is too long, they must apply to Legal Aid Ontario (formerly Ontario Legal Aid Plan) for a certificate. They must then retain a lawyer who will accept the certificate, as not all lawyers will take Legal Aid clients. As part of pilot projects under Legal Aid Ontario, there are three family law offices (one in Toronto, Thunder Bay and Ottawa) which provide services to individuals who have certificates, but may be having difficulty retaining a lawyer. Language, gender, sensitivity to the issue of domestic violence and experience are all factors which restrict the choice of lawyers for immigrant women. When a lawyer is retained, the woman will become part of the lawyer/client relationship.

A recent study on the legal information needs of low-income women in Ontario regarding the Child Support Guidelines documents many of the barriers that exist in accessing legal services (McDonald 1999b). The Child Support Guidelines, which became law in May 1997 and as federal legislation have subsequently been adopted by Ontario, provide clarity and some simplification. As Cossman and Rogerson note, “The need for legal advice may not be altogether eliminated in this area. Many people will still require legal assistance in applying the guidelines to their fact situation” (1997, 887).

Other than the certificate and legal clinic models of delivery, there are also duty counsel who are available at the courts. As well, there are some arrangements in different areas whereby a duty counsel is available outside of the court, for example one evening a
week at a legal clinic. The role of duty counsel may vary from court to court. While some duty counsel do not help with court documents, some may. One of their roles is to assist in reaching a settlement between parties. Regardless of their exact role, due to a lack of resources, duty counsel are extremely limited in the assistance they can provide to parties.

There are other initiatives that have been established to fill the gaps in the provision of legal services for low-income individuals in family law: Aboriginal courtworkers, Parent Support Workers, the Pro Bono Family Law Court Program at the 311 Jarvis courthouse in Toronto, the Parent Information Sessions in Toronto, and the Family Law Information Centres which are not in operation in Toronto.

Overall, despite the reinstatement of certificate coverage in many family law issues as of April 1998, access to legal assistance remains difficult for immigrant women who have experienced domestic abuse. Speaking with the staff of the Women’s Program, more and more they are being called on to prepare affidavits and other legal documents and assist their clients in both criminal and civil cases where they themselves have little or no formal training.

The present Conservative government, like other governments before it, appointed a commission to examine legal aid in Ontario. Chair John McCamus presented his commission’s report, A Blueprint for Publicly Funding Legal Services, to the Attorney General in September 1997 (known and cited herein as the McCamus Report). The Legal Aid Services Act, R.S.O. 1998, c.26, was passed in the Ontario legislature on December 14, 1998. This Act creates an independent corporation called “Legal Aid Ontario” as of April 1, 1999. Importantly, the Act recognizes that the private bar is the foundation for providing legal aid services in the areas of criminal and family law (as opposed to clinics
or other alternatives). Several pilot projects have been set up including the three
aforementioned family law offices (a staff model), unbundled services to provide family
legal advice and support to enable self-representation (e.g. Family Law Information
Centres), increased duty counsel, and increased family case management. Many of these
projects began in 1998 or 1999 and at this point, no final evaluations are available.

Part VI – Barriers to Public Legal Education

Thus far, I have presented literature that suggests that alternatives to the
traditional model of legal services are needed to address the legal needs of disadvantaged
groups and individuals. Spanish speaking immigrant women who have experienced
domestic abuse have been subjected to various forms and degrees of power and control in
their relationships. I have suggested that this relationship of dominance and dependence
is replicated in the traditional lawyer/client relationship. As such, the abuse continues in a
traditional model of legal services and alternative approaches, such as learning and
education, are needed.

There are many barriers to the use of adult education and learning in the delivery
of legal services. This section reviews some of these barriers. First of all, I will look at
informal learning focusing for this study on the impact of trauma on learning. Second, I
will explore the limitations of the legal profession. I will then look at the role of the state
and its control of funding. Finally, I examine the implications for and tensions inherent in
immediate and deferred benefits in the delivery of legal services.
Informal Learning

There is a body of literature that examines informal learning for adults arising from numerous disciplines and theoretical perspectives. This review is in no way exhaustive. The idea of informal learning is not new; Knowles introduced it in his book, *Informal Adult Education*, published in 1950. In the late sixties, Tough identified that adults were learning independently of formal institutions and educators and his work focused on deliberate, intentional efforts to learn. Coombs et. al. (1973) introduced the threefold learning typology (formal, non-formal, and informal) that remains in use by some academics today. These authors saw informal learning as “the truly lifelong process that allows individuals to acquire values, skills and knowledge from daily experience and which may come from the media, friends and family ”(1973, 14). In the early eighties, Strauss (1984) criticized the formal/informal dichotomy. She argued that this dichotomy is not only ethnocentric, but “…its categories are too broadly conceived as whole institutional contexts rather than particular cognitive processes” (1984, 198). More than fifteen years later, the terms, “formal” and “informal” are still being used. While rigidity in any characterization has its limitations, understanding informal learning as distinct from formal learning or other forms of learning is important.

Livingstone and researchers have recently done significant work in this area through the National Research Network on New Approaches to Lifelong Learning (NALL) at the Ontario Institute for Studies in Education of the University of Toronto. Livingstone (1999) has documented the extent of self-reported learning in the current Canadian adult population. A country-wide survey indicates that most Canadian adults are engaged in learning activities, for an average of fifteen hours each week, and most are
informal learning activities. In general, informal learning refers to how individuals learn at work and through daily interactions, which can occur on a continuum of intentionality and consciousness. Livingstone provides the following definition of informal learning:

Informal learning is any activity involving the pursuit of understanding, knowledge or skill which occurs outside the curricula of educational institutions, or the courses or workshops offered by educational or social agencies. The basic terms of informal learning (e.g. objectives, content, means and processes of acquisition, duration, evaluation of outcomes, applications) are determined by the individuals and groups who choose to engage in it. Informal learning is undertaken on one’s own, either individually or collectively, without either externally imposed criteria or the presence of an institutionally authorized instructor (1999, 51).

Livingstone continues to distinguish “explicit” informal learning:

*Explicit* informal learning is distinguished from everyday perceptions, general socialization, and other tacit learning by peoples’ conscious identification of the activity as significant learning. The important criteria that distinguish explicit informal learning are the retrospective recognition of both a new significant form of knowledge, understanding or skill acquired on one’s own initiative and also recognition of the process of acquisition (1999, 51).

The NALL project is attempting to identify the extent of informal learning, the existence of social barriers to learning, and more effective means of connecting learning with work (Livingstone 1999, 52). The study found a wide range of learning with approximately 90% of respondents engaged in “other general interest informal learning” (1999, 61). Seventy-five percent were learning about health, 60% about environmental issues, 60% about finances, and over half were learning about hobby skills, social skills, computers, sports, and recreation (1999, 61). Interestingly, learning about the law was not reported.

Writers have noted that learning occurs when the critical elements of action, or attending to the experience, and reflection are present (English 1999, Merriam and Clark 1993). Garrick (1996) explores this relationship between experience and learning and argues that informal learning should be viewed as experiential learning. Garrick notes that the five prevailing philosophies in adult education (liberal, behaviourist, progressive,
humanist, and radical) and the four core traditions (training and efficiency in learning, self-directed learning, learner-centred education, and critical pedagogy and social action) mix to provide considerable differences in the writing on informal learning. Garrick sees experiential learning as a humanistic discourse “whereby learners actively define their own experience by attaching meanings to events” (1996, 31).

Watkins and Marsick (1992) propose a theory of informal learning in organizations. They identify seven elements which contribute to a conceptual understanding of informal learning. English (1999) has applied these elements to a study she conducted of informal learning in several parishes in the Maritimes. Merriam and Clark (1993) note in an article entitled, “Learning from life experience: what makes it significant?” that no learning occurs when an experience is either too congruent or too incongruent with prior experience. The findings from their study suggests that for learning from an experience to occur: 1) it must personally affect the learner, either by resulting in an expansion of skills and abilities, sense of self, or life perspective, or by precipitating a transformation that involves the whole person; and 2) subjectively valued by the learner (i.e. the learner places a personal stamp on the experiences and recognizes the importance in her life).

These writers, through their research, have provided a stronger conceptual understanding of the process and results of informal learning for adults. This understanding is absent in the literature on public legal education and information. Also absent is an understanding of the impact of trauma on learning.
The Impact of Trauma on Learning

Women who have experienced domestic abuse have been subjected to emotional, physical and possibly sexual abuse. For every woman, the duration, nature, and intensity of the violence varies and consequently, the severity of trauma experienced also varies. Yet it is essential to understand the impact of such trauma on learning for the women.

Dr. Herman's book, Trauma and Recovery: The Aftermath of Violence – from Domestic Abuse to Political Terror (1992), is a succinct and excellent resource that characterizes post traumatic stress resulting from a number of different situations, as well as exploring steps to recovery. She provides the following definition of trauma:

Traumatic events overwhelm the ordinary systems of care that give people a sense of control, connection and meaning. Traumatic events are extraordinary, not because they occur rarely, but because they overwhelm the ordinary human adaptations to life... They confront human beings with the extremities of helplessness and terror and evoke the responses of catastrophe (1992, 33).

As Herman’s definition suggests, when an individual has experienced trauma, s/he loses her/his sense of control, connection and meaning. In order to live a healthy, full life, the individual must be able to regain control, connection, and meaning in her/his life.

The effects of violence and trauma can be manifested in a number of ways and can be both short and long term. Rundle and Ysabet-Scott (1995, 8) outline these effects in their work on violence, women, and education. For example, there can be a difficulty in beginning new things or taking risks. This includes a fear of being punished, humiliated or rejected for making mistakes. As well, because one’s sleep patterns are often disturbed, the resulting exhaustion may cause individuals to find learning draining and tiring.
Trauma erodes one's sense of self, self-esteem, and confidence; there are feelings of blame, guilt, and responsibility for the traumatic event. All these feelings can work to prevent an individual from becoming a successful learner. Indeed, the pressure to learn can augment the feelings of guilt, shame and low self-esteem. These feelings manifest themselves in many ways. One of these is through disassociation or a sense of detachment – spacing out, feeling numb, not being aware of what is going on. A further effect is the inability to concentrate, which may be manifested by difficulty listening, distraction or preoccupation.

Herman describes the impact of trauma on individuals:

They have an elevated baseline of arousal: their bodies are always on the alert for danger. They also have an extreme startle response to unexpected stimuli associated with the traumatic event (1992, 36).

An individual may experience panic attacks, including faintness, dizziness, shaking or feeling out of control and flashbacks to the trauma itself or to the feelings that the trauma caused. These characteristics become very important for teachers. As well, there may be a concern for safety – in the learning place, travelling, in the home. This concern may distract or prevent the individual from learning. Finally, there may be health problems, such as depression, or physical problems. Trauma can affect one's physical health as well. Any of these effects may make it difficult or impossible to learn and trauma should be recognized as a potential source of learning disabilities.

Perhaps the most serious of these effects is the inability to trust. Code (1987) argues that human beings are cognitively interdependent and the creation of knowledge is dependent on practices and attitudes of knowers. Any attempt to create knowledge occurs within communities. To count as knowledge, community members must be able to locate,
refer to or to symbolize an item within the community. Being a member of a community, we can rely upon others. According to Code, trust “. . . is a condition of viable membership in an epistemic community (1987, 173). In fact, the very possibility of epistemic life is dependent upon intricate networks of shared trust.” There are moral dimensions of trust as well.

Trust opens one up to vulnerability and alters power positions (Baier 1986, 240). It can create dependency, feeling vulnerable to disappointment or betrayal, and risking harm to self. Being worthy of another’s trust requires that one not exploit the power. In the classroom, in general, the teacher has power and privilege relative to the students, but there are also students who have greater power than other students. A responsible teacher needs to understand his/her power and the importance of not exploiting the trust. A trustworthy teacher can be counted on to fulfil pedagogical, epistemic and moral responsibility.

Overall, the severity of the effects of trauma depends upon the quality and duration of the event, the availability and timing of appropriate treatment and conditions for recovery, and the personality and coping strategies of the individual (Rathus and Jeffrey 1980).

Society tends to stereotype survivors (McFarlane 1994). We may assume that they are exaggerating and listeners will often feel overwhelmed when hearing of experiences. Healing from trauma should not, however, be an individual problem.

It is important to understand the learning context, for our society has tended to adopt a deficit model of learning (Horsman 1995, 1998). This implies that the learner is the problem. In the case of literacy for example, society values literacy skills and all
children are given the opportunity to learn to read and write. When one does not learn the skills as expected, the deficit model blames the individual for his/her laziness, stupidity, lack of attendance etc. as opposed to looking at the conditions for learning. Horsman addresses the problems inherent in the deficit model and argues that the causes of illiteracy are rarely examined (1995, 2). With this deficit model, society loses the learner’s strengths and skills as it focuses on his or her weaknesses. In focusing on the individual as the problem, society remains unchanged. Unemployment remains an individual problem; pervasive discrimination that puts up barriers to entering professions and trades remains unchallenged.

While in general there is little work done on trauma and the experience of learning, there have been some forays into this area, specifically with respect to women and violence. Gowen and Bartlett (1997) look at women in abusive situations and the impact on literacy learning. Horsman (1999, 1998, 1997, 1995) has examined this issue and calls for much more research in this area. She explores links between violence in women’s lives and illiteracy. She argues that the link is crucial and the silence must be broken to question the impact that violence has on literacy learning and how learning can be effectively carried out. In her recent research (1998), she asked two questions of literacy workers and participants: 1) What impacts of abuse do you see in your literacy program? And, 2) How can/ should literacy programs address the impact of violence? Horsman found that frustration was overwhelming for both workers and learners (1998, 64). Learners felt that their failure to learn must prove they are stupid and workers felt incompetent. Horsman’s latest work, Too Scared to Learn (1999) is a comprehensive text detailing this research across Canada with women, literacy, and violence.
Belenky et al. (1986) did a study that illustrates the impact of abuse on learning in which they describe women as silent. Horsman (1995, 210) identifies the shortcomings of this research in that it lacks analysis of the power dynamics that have caused the silencing (1995, 210). She suggests that their conclusions may lead to blaming the woman for lack of voice and that the researchers present a simplistic division between women and men’s ways of knowing.

Rockhill (1987, 330) acknowledges the context of power. Potter (1995) discusses pedagogical issues that concern incest survivors. She argues that being a good teacher involves creating an environment conducive to non-alienated learning and creating a space in which survivors’ experiences can fit into the classroom (1995, 70). She does not suggest that their experiences be taken up in the classroom. Labov (1969) found that monolingual speakers, who had undergone a change in dialect, reverted to their earlier dialect when telling stories of personal tragedy or trauma. Stone provides a brief overview of the three stages of trauma response: shock, release and recovery (1995, 51). He also presents considerations for English as a Second Language teachers.

Spanish speaking immigrant women, indeed all women, who have experienced domestic abuse have experienced trauma and the impact of this must be acknowledged and accommodated if any learning is to occur. Given the paucity of literature directly on this issue, I have looked to a number of sources for insight into practical considerations for educators of individuals who have experienced trauma.

Autonomy and a positive self-image are essential in a classroom. For example, we know that in language learning a healthy “language ego” counters inhibition (Brown 1994). Within the current paradigm of outcomes, however, there must be an
understanding of the complexities of learning and trauma. Much of learning that takes the energy of the learner is not visible. If outcomes include only the ability to function in English or remember the process to obtain a restraining order, frustration will result. Learning may be going on. The newcomer may be learning to connect, to trust, to share again. Yet none of this important learning will be recognized and valued.

*Isolating the Barriers* is a practical guide published by the Canadian Congress for Learning Opportunities for Women (1995). It offers practical ideas to remove educational barriers created by violence in prisons, universities and other settings.

Within a classroom or other formal setting, the issue of control becomes quite complex. In this traditional setting, the practitioner has a role of authority. The individual may feel out of control or being controlled by others. A setting where the learner feels safe and comfortable is essential. As well, a learner centred approach becomes very important. At the same time, a delicate balance must be achieved between allowing too much freedom and not enough.

The practitioner and learners should avoid loud, aggressive talk, shutting the door without permission, or other controlling behaviour. Practitioners should be discreet when asking about family, personal history or politics. There should be workshops or discussions to sensitize staff and learners. While understanding the conditions of post traumatic stress disorder are essential, practitioners should also be aware that the characteristics may manifest in different ways. For example, different cultures have different ways of expressing grief. Attendance policies and program expectations should be reviewed to ensure that they do not create barriers to learning.
There is a need for active and sustained listening. When hearing of traumatic experiences, the listener should maintain a positive attitude and recognize the resilience and strength of these individuals, building on their proven resourcefulness.

Disconnection and displacement adversely impact the learning process. Connection requires trust. While the classroom can be a place of connections, it can also represent a number of challenges to the learner. There is great value in the collective nature of sharing – in speaking and listening, in reading and writing – one’s experiences. Stone suggests that when learners can articulate their thoughts associated with traumatic events, the thoughts then are transformed into something more manageable (1995, 55). A collective response will also serve to break down the isolation, loneliness, and guilt that they are feeling. Learners need supportive feedback so that they can become more conscious of themselves and their thoughts.

While educators are not therapists, and should not attempt to take on that role, they must be able to recognize the issues created by the experience of trauma. Any professional may feel overwhelmed when asked to provide support and a common response is to back away. The practitioner may seek to protect her/himself in the cloak of professionalism and this must be recognized as a natural response. The goal is to provide the practitioner with enough understanding of the issues, enough support and resources so that s/he does not have to back away.

Learning should be conducted with an acknowledgement of the needs of those who have experienced trauma. These needs must be acknowledged as normal. Healing and learning can be connected.
Learning programs, whether English or public legal education, should take a holistic approach to the provision of services. There is a need for education for therapists regarding learning issues. There is similarly a need for educators to understand something of the nature of trauma. I am in no way suggesting that educators should undertake the therapist role. Yet they must be able to recognize problems when they occur and offer guidance through referrals and links to appropriate services. There should also be recognition of the boundaries that practitioners must establish in order to accomplish their work in a professional manner. Hearing disclosures of traumatic events in confidentiality can place an incredible burden upon an untrained listener. This weight can adversely impact an educator’s personal and professional life causing great stress from feeling unable to help.

As noted in the study by MacLeod and Shin (1994), services provided within the ethnospecific community were preferred by the participants. The Women’s Program at the Centre for Spanish Speaking Peoples will provide a comfortable, accessible and safe environment for the participants of this study.

The Legal Profession

While public legal education has existed formally for over three decades in Canada, it remains underused and poorly understood. In my Master’s thesis (1998a, 95–117), I found that among the Ontario clinics, where public legal education is part of their service mandate, its role varies widely and in some cases it is non-existent. Using education in the delivery of legal services poses challenges to the legal profession in Ontario and elsewhere for many reasons (1998a, 100-102).
First of all, the legal training that law students receive in law school and as young lawyers in private or public practice teaches them to approach problems in exclusively legal terms, using legal tools. Problems are analyzed based on legal criteria. Hence, it is not difficult to see why lawyers take such a legal emphasis or why lawyers have such faith in the law as a social change strategy. As a result, law students and lawyers perpetuate the legal literacy myth, assuming that law and rights, \textit{a priori}, will resolve people's problems. Lawyers, law schools, professional associations, and the public place a heavy, if not complete, reliance upon the traditional legal system and the remedies it provides to resolve problems.

While many, if not all, issues that affect disadvantaged people (housing, racism, poverty, abuse) may be addressed in part by the enforcement of rights, or changes in the law, they are the result of a multitude of forces - political, historical, social and economic. A purely legal response as such, will be inadequate or ineffective as these other forces remain untouched. As Schuler and Rajasingham (1992) argue, the problem should be the starting point, rather than the solution. If this were the approach, then the assertion of rights through traditional legal mechanisms would become only one part of a larger strategy in which education would play a primary role.

Second, lawyers are taught and trained to take an active, omniscient, leadership role. As Wexler noted in 1970, lawyers have an interest in not sharing knowledge. They

\ldots are taught to believe, and have a three-year investment in believing, that what they have learned in law school was hard to learn and that they are somehow special for having learned it (1970, 1055).

Third and very simply, lawyers are not trained to be educators. Lawyers are trained in the law in traditional educational institutions, this is what they know. Attempts at legal education by lawyers have a tendency to be content and information focused and
as a result, the first legal literacy myth is perpetuated: They assume that if people are given information about the law, then people will exercise their rights.

Lawyers have university training so when working with people who may not speak English as a first language or who have very little formal education, there is an immediate disparity in the knowledge base as discussed earlier. A Canadian Bar Association Task Force report noted that a majority of efforts to improve client understanding of the law make use of materials that require competence with written material (1992, 12). As well, it found that lawyers generally were unaware of the extent to which different literacy levels lead to problems in the lawyer-client relationship (1992, 11-12). Lawyers will use methods that generally replicate patterns of earlier schooling such as lecture format and written materials, with a top-down model of instruction which fosters respect for authority, experts, discipline and good work habits. Overall though, there is little recognition that there is a pedagogical methodology to the process of developing these skills of analysis and problem solving.

Finally, within the profession there is a general reticence to embrace other disciplines. Because of legal training, public image and the profession's investment in the law, the law is accordingly predominant in lawyers' initiatives for social justice.

This has not caused much reflection, however, as there exists no rationale for the legal profession to challenge the existing class and power structures which would ultimately threaten its own hegemony. Unfortunately,

[N]either the legal nor the political establishments can be expected to show much dedication to attacking systemic inequality and exploitation; on the contrary, they are both perceived (and not inaccurately, I suggest) as having an interest in the very institutions that disempower and oppress poor people (Blazer 1991, 69).
Yet for decades, the "pedagogical potential" of the lawyer has been debated. The argument is that in the one-on-one interactions between lawyer and client, lawyers have an opportunity and a responsibility to share their knowledge with clients. Kimberlee Kovach argues that because an important aspect of lawyers' work is teaching people about the law, law students should acquire teaching experience while in law school (1998, 359). She notes that "[Public education is part of the lawyer's professional and civic duty" (1998, 359).

Overall however, in most legal aid programs which are designed by lawyers, the lawyer retains a proactive role to defend individual rights. When education is combined, this may serve to augment the traditionally passive role of the clients. The lawyer has an inflated belief in his/her own role and sees the law as his/her specialized domain. Schuler and Rajasingham conclude that at best, lawyers provide ineffective educational strategies and at worst, their educational efforts reinforce the status quo whereby the lawyer is the only keeper and defender of rights (1992, 57).

All this does not mean that lawyers should not engage in educational initiatives. Legal education should incorporate training in strategies other than traditional legal responses such as litigation. Further, lawyers should work with educators, translators and others and not in isolation. A multifaceted approach to complex issues will require a number of different skills.

The Role of the State and Funding

Another barrier to the establishment of pedagogically appropriate public legal education programs is the role of the state and funding for the programs. This section will
look primarily at the certificate system of the former Ontario Legal Aid Plan (now Legal Aid Ontario) and the role of the state. I argue that where funding is provided by the state, the services provided will serve the interests of the state.

Currie (1990) examines the Battered Women’s Movement and its relation to the state in the use of the criminal justice system. In Canada, changes have occurred in the past two decades in the legal realm: amendments to the Criminal Code with respect to domestic and sexual assault, family law reform and the equality rights in the Charter. As well, the provision of Legal Aid has enhanced access to justice for women. We can celebrate these formal guarantees of equality. At the same time, however, these changes reinforce the dominant institutions and ideology of the patriarchal society and as such, Currie criticizes them as representing an alliance between the state and feminism (1990, 78).

This contradiction is extremely clear in the certificate system which affords women access (albeit limited) to the legal system, but to a male defined paradigm of justice. For the “law is male in form, language and mode” (Currie 1990, 78). I suggest that the state is able to control the form of the exercise of power through the traditional legal services provided by the former Ontario Legal Aid Plan judicare system. This provision of services perpetuates the oppression of women who have been abused by their intimate spouses.

Women have been oppressed by capital, by patriarchy (Currie 1990, 79) and by race. Currie is quick to acknowledge that the law is not the state. Legal Aid in Ontario, however, can be viewed as an extension of the welfare state (Palacio 1992, 94). The

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2 I use the term “welfare state” as a synonym of the interventionist Keynesian state. This is the use adopted by Palacio 1992.
system was established to fill a void and provide legal services for the indigent. In Canada, the welfare state came into existence in the mid-thirties, during the Depression when there was an increased need for government intervention. The government of Canada became committed to guaranteeing minimal conditions of reproduction of the wage labour power (Palacio 1992). Public expenditure was increased to fulfil this task of providing minimum wages, pensions, health care, housing, and education. In the past several years, governments have focused on providing tax cuts to the public and social services have been cut.

On the one hand, we see the welfare state as having improved conditions for workers and other marginalized groups, here specifically women, in terms of wages, living and working conditions, strengthening labour unions and earning recognition for workers’ and women’s rights. On the other hand, the welfare state is only partially effective because it can only partially alter the income distribution between capital and labour and because it does not eliminate unemployment, work related diseases and has led to the increase the bureaucratic machinery. Nor does the welfare state alter the other sources of oppression for women, the patriarchy. It does not eliminate sexual harassment, discrimination in employment, housing, or immigration. Thus, the development of social welfare may maintain or even deepen, rather than ameliorate existing inequalities of not only income and opportunities, but gender and race inequalities as well.

Legal Aid in Ontario is an example of a guaranteed minimum; it is now a welfare right, although this right has been eroded in the past few years. First came the certificate system. In 1974, in response to the rising costs of the certificate program, the Osler Task Force on Legal Aid, recommended that the clinic system be incorporated into the Plan
(1974, 112). For the early clinics, the Plan promised a relatively secure funding source, but in return they would have to compromise their independence. Blazer suggests that as funding is controlled by the Clinic Funding Committee, a dependency has been created and this dependency on state funding perpetuates traditional legal services (1990, 62-64). Similarly, as the certificate system has been expanded and funded to include other matters, this dependency on the state funding is perpetuated.

Legal Aid, administered and funded by the state and the Law Society, must be analyzed as part of social policies by the dominant class. Fundamental changes to the underlying structures of political and economic power in favour of disadvantaged individuals and groups in our society will not occur because of the dependency created through funding by the state (Osler 1974, 109). The Ontario Legal Aid Plan was and Legal Aid Ontario is intimately tied to the policies of the government and the court system.

Thus, Blazer argues that state supported legal aid will serve to reinforce the status quo in two principal ways (1990, 67). First of all, the immediate problems of low-income and otherwise disadvantaged individuals and groups are solved and it will appear that the state is providing substantive equality. As long as the individuals involved believe this, or as long as they are able to reap the immediate benefits, they will not feel the need to mobilize for change. The tie to the state, through funding, effectively renders the system accomplice to a system that is oppressive and hampers the possibilities for effective change from those who would most benefit from it.

Second, state support for legal aid works to legitimize the existing social arrangements with a “symbol of equality” (Blazer 1990, 67). If the government gives
disadvantaged individuals and groups access to legal institutions, then the results reached by the system can be legitimized as being free from any systemic bias that would occur if those disadvantaged had no access at all. When cases are won and problems are solved, the legitimacy is confirmed. Thus, through the theory of “access to justice,” the legal system and the administration of justice of the capitalist, patriarchal state are legitimized and never challenged.

Blazer’s argument suggests that those who provide Legal Aid services, in the certificate, clinic and now staff system, must work within the existing legal system because of their dependency upon state funding. Mossman (1983) presents arguments that the clinics, in particular, are able to maintain their independence from the state. What is important here is that providers of legal aid are limited in the services they can provide because of limited funding, resources, and their own position working within a traditional model of legal services.

Most literature on the state and funding is from the United States. Eagly (1998) provides a thorough summary of the history of legal services, federal funding, and the restrictions placed on work. Examples of these restrictions on organizations that receive federal funding include: 1) educational workshops cannot become organizing activities; 2) no training activity may be used to advocate for a particular public policy or encourage political activity; and 3) educational workshops may not be used to give participants unsolicited advice to see a lawyer or take legal action (Eagly 1998, 450). Ontario legal clinics do not face any such explicit restrictions on their educational activities.

A traditional model of legal services, here most frequently in the realm of family law, provide one response to the real needs of women who have been abused. Yet with
Legal Aid Ontario providing some (albeit limited) representation, the certificate system has come to represent not merely access to, but justice for women (Currie 1990, 88). Currie notes,

The demand for re-distribution of social power, which can only result from radical social change and which underscored the early women’s movement, has been translated into demands for expansion of current institutions (1990, 86).

To illustrate this concern, Currie traces the Battered Women’s Movement. She describes community shelters which developed support groups and activities such as consciousness raising which now have to compete for funding with other state programs (1990, 87). Other non-feminist groups also vie for state funds. There is a movement away from self-help methods, non-hierarchical relations and collective organizational structures to services which are delivered by organizations funded by the state and based upon traditional models and methods of service delivery. Professional voices are given their way and the state claims that it is moving to meet needs (1990, 88). When faced with the immediate needs and safety concerns for abused women, it is easy to fail to recognize, or to overlook, the role that the state is playing in the continuation of women’s oppression.

State supported legal aid cannot escape the control that is exerted through “access to justice” strategies which legitimate the legal system and the administration of justice in the capitalist, patriarchal state (Osler 1974, 104). In the attempt to meet the needs of women who have experienced domestic abuse, the role of the state and funding cannot be ignored.
Immediate versus Deferred Needs

The immediate needs of women who have been abused are real and of great concern. These might include safety, shelter, and food for the woman and her children. Public legal education cannot address many of these immediate needs and some might argue that the tension between immediate and deferred needs represents a barrier to the establishment of alternatives, such as public legal education programs. Real benefits are to be gained through traditional legal services (e.g. representation and litigation) which can provide restraining orders, divorce, and custody, access and support orders. Through these legal processes, women can gain a certain freedom (legal at least) from their past, abusive relationships. Public legal education addresses systemic barriers to equality and social change, as well as prevention, the results of which are never immediate. There will always exist this tension between the long term rewards and the immediate benefits. Tremblay refers to this tension as the "deferral thesis" which is a recurring debate in poverty law and other disciplines (1992, 956). I suggest that the two are not mutually exclusive and the goal is to work towards an integrated approach whereby there is a balance between immediate needs and long term rewards.

As Currie acknowledges, however, the practical problem is very real and represents yet another barrier to the successful establishment of public legal education programs for women who have experienced domestic abuse (1990, 85). In poverty law, the theoretical commitment remains divorced from practical application (see Blasi 1994). While theory should not be divorced from practice, there is a very real danger that academic endeavours on discourse and deconstruction (Alfieri 1988, 1991) remain merely that.
One of the greatest challenges that faces those who work in social justice is bridging this gulf that seems to exist between theoretical commitment and practical application. Alfieri (1988, 665) and communitarian feminists seek to join the individual in local, regional and national alliance. Such alliances should be extended to the international realm where innovative work is being undertaken as in the Alternative Legal Services of Latin America (Rojas 1988) and the Legal Literacy initiatives from around the world (Schuler and Rajasingham 1992).

Smart concludes in her work on law as power, that the purpose of feminism as we struggle with law is not to identify reforms, but to “challenge law as a signifier of masculine power” (as cited in Currie 1990, 82). We must break away from the hegemony of male defined legal institutions, processes, and norms.

In Sum

Public legal education has formally existed in Canada and Ontario for over three decades. It has long been recognized that a traditional model of legal services cannot adequately address the needs of disadvantaged individuals and groups (Wexler 1970). Spanish speaking immigrant women who have experienced domestic abuse have many needs, both legal and non-legal. The former Ontario Legal Aid Plan and now Legal Aid Ontario, whether through the judicare or clinic system, cannot address these needs because of the role of the state, its control of funding and resources, and the legal professions.

In order to understand the context of this study, I began by describing the nature of the abusive relationship. I also highlighted the need to incorporate the multiplicity of
oppressions that immigrant women who have experienced domestic abuse face as they seek solutions. In Part III, I reviewed both old and the “new poverty law scholarship” which critiques the lawyer/client relationship. I have argued that the dynamics of power and control present in an abusive relationship are also present in this lawyer/client relationship, albeit in a much more subtle form. In Part IV, I then presented different models of public legal education. I then provided the background for this study: domestic abuse in Canada, the Ontario Legal Aid Plan, and the Centre for Spanish Speaking Peoples.

Finally, in Part VI, I presented some barriers to the successful establishment of a public legal education program: the impact of trauma on learning, the legal profession, the role of the state and funding, and the tension between immediate and deferred needs.
Chapter 3
Gaps in the Map - Feminist Participatory Research

Part I – The Theory

"The function of research is not necessarily to map and conquer the world, but to sophisticate the beholding of it." (Stake 1995, 43)

Mode of Inquiry

This study seeks to define and address the legal information and education needs of Spanish speaking immigrant women who have experienced domestic abuse. It uses feminist participatory methodology to facilitate the participation of the women in the definition of these needs and solutions. An underlying assumption of this study is that there exist dynamics of power and control in the conception and delivery of social and legal services and in professional/client relationships. By using methodology that will facilitate the participation of the women in the design and implementation of responses to address their needs, it is hoped that this participation will also assist in breaking down these dynamics.

A feminist participatory research methodology was chosen for a number of reasons. This chapter will first present an overview of feminist participatory research, as well as the details of the research involved in this study.
Understanding Participatory Research

Origins

Participatory research has its origins in emancipatory movements. Hall (1979), Tandon (1981) and Horton (1981) have identified three trends occurring in the 1970s which led to the emergence of participatory research: the radical and reformist conceptualizations of international economic development assistance; the reframing of adult education as an empowering alternative to traditional educational approaches; and the ongoing debate within social sciences. This debate has focused on challenging the dominant social science paradigm.

In the sixties and seventies, adult educators questioned their practices which fostered social relationships based on dominance (Freire 1970, 1981, Nyerere 1969). In Latin America, liberation theology was growing at this time and the emancipatory tenets influenced educators such as Freire. Freire (1970) emphasized the importance of critical consciousness for social change. He argued that to develop critical consciousness is to learn to perceive economic, political and social contradictions and to take action to change oppressive elements of reality. Freire (1996) also argued that the oppressed are experts in their own experience. He proposed thematic investigations through which people would identify and analyze their own problems in order to solve them. Freire saw the researcher as a committed co-investigator; those being researched were no longer objects, but rather active participants.

In the 1930s, Horton saw adult education as a powerful vehicle for social change (Adams 1975). Horton and the Highlander Folk School began working with poor
Appalachian mountain people to use education as a tool to question and challenge an unjust society, mostly in the areas of labour and civil rights.

Description

Participatory research "fundamentally is about the right to speak" (Hall 1993, xvii). Participatory research is defined as a method of social investigation of problems, involving participation of oppressed and ordinary people in problem posing and solving. It is an education process for the researcher and participants, who analyze the structural causes of named problems through collective discussion and interaction. Finally, it is a way for researchers and oppressed people to join in solidarity to take collective action, both short and long term, for radical social change. Locally determined and controlled action is a planned consequence of inquiry (Maguire 1987, 29).

The purpose of participatory research is to create changes in power in favour of disadvantaged groups. That change in power can be measured by the degree to which members of a group increase their options for concrete actions, their autonomy in using these options and their capacity to deliberate about choices for action (Conchelos 1983, 335-36).

The components of participatory research - investigation, education and action - are collective processes. Collective inquiry helps to develop group ownership of information and solutions to problems. The participants are not mere objects, but rather act as subjects of their own research process.

The educational component of participatory research can give participants a way to develop an understanding of social problems, their causes and ways to overcome them. As well, adults may learn well through experience.
The ideological foundation of participatory research challenges the underpinnings of dominant social science research through its understanding of the issues of knowledge, power and control.

Assumptions

Participatory research assumes that there is no neutral or value free social science. All work has implications for the distribution of power in society. Researchers must be clear about their perspective on power relations (Horton 1981). Participatory research starts from the idea that knowledge has become one of the most important foundations of power and control (Tandon 1981). Further, it assumes that power is in part derived from control of both process and products of knowledge creation. In other words, dominant groups have power to shape what is “common knowledge” (Foucault 1979).

People are taught to believe that they cannot adequately understand their own lives and as a result, they stop trying. As Freire noted:

But too often, the ordinary person is crushed, diminished, converted into a spectator, maneuvered by myths which powerful social forces have created. . . The greatest tragedy of modern man [sic] is his domination by the force of these myths (1981, 6).

People often do lack information, skills and experience to critically understand and analyze the social structures and relations that shape them. When people, who do not have information, are forced to focus on daily survival and immediate needs, they often lack the time and energy required to understand how power structures work and affect them. Often they end up blaming themselves for their own situations of poverty, abuse, and powerlessness.
Popular knowledge, or common sense knowledge, is a key feature of participatory research (Maguire 1987, 38). It is that knowledge belonging to the participants at the grassroots level. In research, it is assumed that ordinary people have rich knowledge and also are capable of generating the knowledge necessary to engage in activities for their own benefit.

Vio Grossi (1981) argues that it would be naïve for researchers to believe that popular knowledge is enough to challenge the power of the dominant class. He suggests that researchers must elicit, organize and systematize existing popular knowledge, identify and adapt existing scientific knowledge for the benefit of the people, and create new knowledge from a synthesis of popular and scientific knowledge (1981, 46). Through dialogue, that is a necessary part of a participatory approach, it is possible to build the atmosphere to engage in factual, interpersonal and critical knowledge development (Gaventa 1993).

Thus, participatory research assumes that all parties come to research with popular knowledge and experience to contribute. The use of participatory research, which explicitly promotes the empowerment of oppressed people and demands the conviction that people need empowering or that people are oppressed and powerless (Maguire 1987). It also requires the conviction that this particular approach can contribute to social change. The researcher must balance the assumption that oppressed people fully understand their own oppression and that the researcher does not, or at the other extreme, that the researcher fully understands the truth about people’s oppression and they do not.

Participatory research also assumes that ordinary people, given tools and opportunities, are capable of critical reflection and analysis. The establishment of critical,
reciprocal, empathic adult relationships between researcher and researched no longer endangers knowledge creation (Maguire 1987).

Underlying the research process is the principle of the sharing of power between researcher and research participants. The participants gain control of decision making and learn what research is all about. This sharing ultimately increases the potential to distribute the benefits of the research. When the objects of research become subjects and partners, they benefit from not only the opportunity to learn about their reality, but also from contributing to and sharing in subsequent policy and program decision making and control.

*Phases, Guidelines*

Vio Grossi, Martinic, Tapia and Pascal (1983) identified five phases in participatory research. Hall (1975) has identified principles that must underlie any participatory research.

The first phase is called “Organization of the Project and Knowledge of the Working Area.” This phase involves the gathering and analyzing of information about the research area and the central problems faced by people. It includes establishing relationships with community organizations and the leaders. The research problem should originate in the community (Hall 1975, 1981).

The second phase, “Definition of Generating Problematics,” involves numerous techniques and processes to enable both researchers and participants to identify and understand the participants’ perceptions of their most significant problems as a dialogue.
In the third phase, "Objectivization and Problematization," there is an attempt to link participants’ individual interpretations of problems to the broader context. Collective educational activities can be important in this phase.

"Researching Social Reality and Analyzing Collected Information" is the fourth phase where participants develop their own theories and solutions to problems (Hall 1975).

Finally, in the fifth phase, "Definition of Action Projects," researchers and participants decide on what actions to take to address problems that they have collectively defined and investigated.

**Feminist Participatory Research**

Maguire identifies the male-centredness of traditional participatory research (1987, 50-52). She argues that participatory research has always used male-centred language. As well, women have not had equal access to project participation. There has been inadequate attention paid to the obstacles that hinder women’s participation in projects and their unequal access to project benefits. Further, there have been unsubstantiated generalizations made of the benefits to women from primarily male projects. Overall, there has been an absence of feminism from theoretical debates on participatory research and an exclusion of gender issues from the issues on the agenda in participatory research.

Feminist research emerged from the women’s liberation movement of 1960s. The movement legitimized questions of female scholars and provided the impetus to uncover the previously unchallenged male bias. Acker et al. (1983, 424) note that female researchers recognized similarities between their own position as women and the women
they studied. For example, as women, they too may have spouses and children; they too keep house as well as work; they too have to cope with sexism in their daily lives.

Feminist research has been influenced by feminism's own critiques of both alternative and dominant paradigms (Maguire 1987, 78). Maguire (1987, 5) offers a definition of feminism which guides her research without suggesting that it is the only one, true feminist perspective. It is a belief that women all over the world face some form of oppression or exploitation; a commitment to uncover and understand what causes and sustains oppression; and a commitment to work individually and collectively in everyday life to end all forms of oppression whether based on gender, class, race, or culture. It is acknowledged that women experience oppression differently depending upon their race, class, sexual orientation and own situation.

The ultimate goal of feminist research is the emancipation of women and the creation of a just world for everyone (Mies 1982, Acker et al. 1983). While there are many different feminisms - liberal, radical, and socialist for example – there are some similarities. Feminist critics point out limitations of objective, value-free, detached research. They also claim that knowledge is socially constructed (Spender 1981a) and that knowledge is power. Power relations are inherent in the production and control of knowledge. Feminist research has also highlighted the centrality of male power as a factor in the production of knowledge.

Freire's work (1970, 1981), which is central to participatory research, presents an example of male bias. A concrete example noted by Maguire (1987) is the drawings used by Freire for cultural circle discussions (1981, 62-81). These drawings, used as a basis for group dialogue about "man in the world," suggest that men not women create culture
The drawings encourage men and women to focus on men's contribution to culture. Freire (1970) maintained that domination was the major theme of our epoch, yet his conscientization tools ignore men's domination of women. Duelli Klein (1983, 102) thinks that Freire does not depart from taking androcentricity as the norm, and consequently, feminists need to do the work for women that he did for men. As well, Freire stresses man's alienation in the world; feminist research includes women's alienation from a man-made world. Weiler (1991) also critiques Freire for his androcentrism. Maguire (1987) argues that a theory should encompass and enrich. Feminist research seeks to interpret women's experience to further the goal of a just society for all.

*Feminist and Participatory Research – Similarities and Differences*

As feminism is change-oriented by definition, one could argue that all feminist research has some action component (Mies 1983; Reinharz 1992). In her book on feminist research, *Feminist Methods in Social Research*, Reinharz (1992) devotes a complete chapter to different types of feminist action research. One type of action research is feminist participatory research. Maguire (1987), writing in the mid-eighties, identified a number of similarities, as well as some differences between feminist and participatory research.

For example, both feminist and participatory research challenge the pretense of objectivity and argue that this challenge requires reconsidering the necessity of a detached, distant relationship between researcher and researched. Feminist research has begun to discuss the division of labour among participatory research teams – how to work in collective, non-hierarchical ways. Both feminist and participatory researchers have
found hidden relationships between researcher control, researcher generalizations and social control. Feminist research alone has explored roots of androcentric control.

Feminist research has challenged the androcentrism inherent in the English language which plays a powerful role in sustaining male bias. The English language is male-controlled and male-centred and works as a primary tool for protecting the myth of male supremacy. Spender states:

... one of the crucial factors in our construction of this reality is language.

Language is our means for classifying and ordering the world: our means for manipulating reality. In its structure and in its use we bring our world into realization, and if it is inherently inaccurate, then we are misled.

Human beings cannot impartially describe the universe because in order to describe it they must first have a classification system. But, paradoxically, once they have that classification system, once they have a language system, they can see only arbitrary things... This makes language a paradox for human beings: it is both a creative and inhibiting vehicle.

One semantic rule which we can see in operation in the language is that of the male-as-norm... While this rule operates we are required to classify the world on the premise that the standard or normal human being is a male one and when there is but one standard, then those who are not of it are allocated to a category of deviation (1980, 2, 139, 3).

The use and role of language in the maintenance or redistribution of power has been raised as an issue within participatory research. Hall, Gillette and Tandon (1983) noted that the language of research serves to separate social investigators from the poor they are investigating. Yet the link between the male-dominated social construction of language and the male-dominated social construction of knowledge and power has not historically been captured in participatory research. Overall, the research has missed implications of gender exclusive language.
While feminist research has certainly focused on language, it must promote making men visible as men. Patai concludes, “Then we can begin to separate the generally human from the merely male” (1983, 184).

Many feminist researchers have moved beyond “knowledge for knowledge sake” (that research designed to make up for past exclusion) to embrace the purpose of creating knowledge for women, and specifically knowledge which contributes to women’s liberation (Acker et al. 1983). Yet Mies (1983) cautions against documenting and analyzing causes and consequences of women’s oppression without doing anything to end it. That is why feminist participatory research is so important.

The Research Process

Participatory research and feminist research both validate people’s perceptions of their reality. Both advocate research that helps people understand connections between individual experiences and broader social, economic, and political struggles. Participatory research outlines and utilizes explicit processes to facilitate ordinary people’s reflection on and analysis of their reality (Maguire 1987, 100).

Maguire (1987) developed a feminist participatory research framework based on her participatory research project with a multicultural group of battered women in Gallup, New Mexico. The framework is an example of praxis; it was developed through interaction between the literature review and the field-based project experience. The purpose of the framework is to provide a planning and evaluation tool for other feminist participatory research projects (1987, 105-107).

Maguire suggests that feminist participatory research would:
1. be built on a critique of both the positivist and androcentric underpinnings of dominant paradigm social science research as well as on the exposure of the androcentric aspects of participatory research to date.

2. give discussion of gender a central place on its issues agenda.

3. give an inclusive feminism, which recognizes and celebrates diversity, a central place in the theoretical debates within the participatory research community. Feminism, with its intent to expose and end all forms of oppression, would be the central theoretical basis from which to integrate other theories, such as critical theory or historical materialism. It would not simply try to integrate feminist concerns into male-centred theories.

4. give explicit and equitable attention to gender issues in each of the five phases of participatory projects as identified by Vio Grossi et al (1983). For example, these questions could be posed:

   i) How are the central problems similar and different for local men and women? How are men’s and women’s perceptions of central problems different or the same? What voice, role and power do local women have in community organizations and institutions? How are women and women’s issues represented by community leadership?

   ii) What role, voice, power do women have in problem-posing forums?

   iii) What linkages are made between patriarchy and the named problems?
iv) How is access to project participation similar and different for women and men? How does women’s double day (work outside and inside the home) minimize or affect their participation? What mechanisms are there to offset these obstacles? How are women and men’s unique strengths built upon within the project?

5. give explicit attention to how men and women, as a group, benefit from the project.

6. pay attention to gender language use.

7. pay attention to composition and issues of the research team, equally including gender, class, race, and culture.

8. include gender as a factor to consider in overall project evaluation.

9. would purposefully review and track all projects with gender in mind.

Observations on Feminist Participatory Research

Participatory research is an alternative paradigm of research. It shares, however, many of the male biases that are present in the dominant paradigms of research (Maguire 1987, 209). Without recognition of and change to these biases, participatory research cannot be truly emancipatory for all people. Most participatory research projects start with the researcher’s commitment (not that of the participants) to an alternative approach to research. The secondary goal of feminist participatory research may be to increase the participants’ critical understanding and analysis of social science. In practice, this rarely happens.

Feminist research adds another dimension as it proposes that changes to research theory and practice reflect diversities of both male and female realities (Maguire 1987,
74). Feminist participatory research must truly put gender, class, and race at the centre of its work.

Other Studies

A number of studies have been conducted in the area of public legal education for immigrants and are reviewed here from a methodological perspective. One relevant study sponsored by the Department of Justice is Burtch and Reid’s *Discovering Barriers to Legal Information: First Generation Immigrants in Greater Vancouver* (1994). This project chose five ethnic communities (Chinese, Hispanic, Polish, Punjabi, and Vietnamese) in Greater Vancouver and conducted interviews with 146 women and 154 men using a questionnaire of both closed and open-ended questions. Both quantitative and qualitative data concerning barriers to accessing legal information were provided (1994, 14-19).

This study is important in that it sought information from those with legal education needs. The respondents were asked for ways to improve the dissemination of legal information. Increased use of bilingual educators or translators, the use of well-translated written materials, and the provision of child care and transportation money were all cited (1994, 99). This study focused on the dissemination of information, rather than learning strategies.

In the Law Courts Education Society of British Columbia and their *Comparative Justice Systems Project* (1994), seven cultural communities engaged in participatory research to design the content and format of legal information appropriate for each community and “cultural sensitization training to service providers within the court
system" (Project Report 1994, 5). Underlying the project is the assumption that, “[l]egal education within these communities needs to start from the experiences and knowledge base of these communities.” (1994, 5) As a result, members of each targeted community were involved at every stage of the project.

Another study conducted by the Law Courts Education Society is Domestic Violence and the Courts: Immigrants and visible minority perspectives (1995). This study used structured interviews to determine the legal information needs and barriers to access of immigrant and visible minority women who have been victims of violence in relationships.

In each of these studies, the researchers sought to explore the needs of those most directly affected by public legal education. In reviewing the studies, the questions posed during the structured interviews, particularly in Domestic Violence and the Courts (1995), were helpful in developing the interview guide. The studies, however, assume that the Canadian legal system is neutral and that the goal of public legal education is to disseminate information about Canadian law and the legal system. Once immigrants have this information, they will be educated.

Limitations of This Study

There is very limited literature on public legal education in general. While a great deal of public legal education work is being done in Ontario, there has been little effort to understand what works and what does not, and why.

Given the small sample size for the study (fourteen women) and the very diverse and particular experiences of the Spanish speaking immigrant women, it will be
imperative to work closely with communities when applying the results of this study to other groups of immigrant women who have experienced domestic violence. The methodology that has been used here and the learnings gained in the area of feminist participatory research will be important.

The nature of the project limited representative participation. There are no comprehensive statistics on the prevalence of domestic abuse in Spanish speaking communities in Canada, or in other immigrant communities (McDonald 1999a). Such figures would permit the calculation of a statistically representative sample. Other factors also affected who could participate. First of all, no women in crisis, such as at the time of separation or after a physical assault, participated in the project. Women who have experienced domestic abuse will have priorities. The first will be safety for their children and themselves. Basic needs, such as shelter, food, and clothing must also be met. These needs are immediate and energy must be spent in meeting their needs. The participatory research project will not help meet these needs in the short term. The staff were consulted and participated extensively to ensure that the needs of these women were heard. As well, several women spoke about their experiences while in crisis.

Second, the University of Toronto Ethics Review Committee required that limitations on confidentiality be clear in the consent form that each woman would sign. The first limitation was if previously unreported child abuse was disclosed, I would be required to report it to the appropriate authorities. The second limitation was if the participant did not have legal immigration status in Canada and if immigration authorities subpoenaed the interview data, I would be required to give it to them. As such, it is possible that some self-selection did occur. Women without legal immigration status
would not likely risk exposure to authorities. Accordingly, all of the women who participated had legal immigration status in Canada and only one did not have permanent residency or citizenship. Again, the staff advocated on behalf of women who do not have legal status.

This project was initiated at the University of Toronto. My understanding of the legal needs of the women, further consultation with the staff of the Women’s Program, as well as my own work in the area (McDonald 1998a, 1998b, 1999a, 1999b) led to the development of the objectives for the study. The women themselves were not consulted directly in the definition process. It could be argued that as such, the initial phase of participatory research (Generation of Problematics) was not truly participatory. This is a valid concern and a limitation of the project. When undertaking research in a university setting, my dissertation proposal and the ethical review protocol, as well as any funding applications, require clear, concise objectives in a proposal form. The consultation process for the definition of the problem was limited to the staff who certainly spoke on behalf of their clients and expressed their needs. This tension will always be present when participatory research occurs in academe (Park 1993, Maguire 1993).

Regarding participatory research, Tandon (1985) noted that most of his experience with participatory research had been a failure as the researchers underestimated people’s passivity. Participatory researchers must avoid the tendency to see their research as the only approach that can contribute to social transformation.

Participatory research makes great demands on the researcher. The researcher’s role is expanded to include that of an educator and an activist with a position (Horton 1981). Maguire (1993) discusses how difficult it is juggling these three roles. There is
also a need to transfer organizational, technical and analytical skills to the participants. This is rarely simple as it requires time, commitment, teaching skills, the ability to set up a project structure and the processes to facilitate the transfer.

There is a need to access financial and institutional resources. Participatory research cannot occur without some combination of institutional resources - human, financial and material. The lack of sustainable funding for the second phase of the project continues to be a concern.

Ideally, the research is initiated by the community. Realistically, as has occurred in this study, the research was initiated from outside which can make the transfer of control of the project difficult.

Vio Grossi (1981) notes that there is no guarantee that participatory research results in the actual increase of power among oppressed people. Power has a material base (often financial and organizational resources). Without a material base, increased knowledge may be insufficient for increased power and action. "We would be naïve if we asserted the idea, totally unsupported by experience, that people only have 'to know' in order to mobilize" (Vio Grossi 1981, 47).

Participants must devote considerable time to the project. For this reason, as noted in the selection of participants, the sample was limited to those women who would be available to participate.

One final limitation is time constraints. Many projects conclude that a common result of time constraints is a less radical or less critical analysis and vision for action (Horton 1981).
Part II – A Feminist Participatory Research Project

Getting Started

Researcher Background

In 1991, I arrived at law school in Toronto after having worked as a primary school teacher in Honduras. Prior to that, I had worked with Central American refugees in Canada, both in the legal system and in settlement, and my travels and work in the Central America helped to further my understanding of the complex issues the region faced. Throughout law school, I tried to find role models in practising lawyers or professors who through their work demonstrated an understanding of the limitations of the law. I avidly read everything on “poverty law,” which is the body of law, practices, and literature focusing on legal issues of marginalized groups, and which has been developing in Canada and the United States since the late sixties. I was aware that it has long been recognized that traditional legal services do not adequately address the legal needs of marginalized individuals and groups (Wexler 1970). I was also influenced by the “new poverty law scholarship” which draws upon theories of postmodernism to critique the traditional practices of poverty law, such as the lawyer/client relationship (Alfieri 1991).

I had little success finding such role models until 1993 when I worked with a human rights organization in Chile. I worked with professionals (educators, social workers and lawyers) who fostered a vision of alternative lawyering (Rojas 1988) using popular education that was and continues to be inspiring. Having rejected, both in theory and in practice, the dominant model of lawyering, I became interested in the use of education and information in the delivery of legal services to marginalized individuals
and groups. I argued that the "new poverty law scholarship" fails to acknowledge the emancipatory potential of critical education, such as popular and feminist education. Critical education could serve as an alternative to the individual casework that currently dominates both the private bar model and the legal clinic model of delivering legal services (see Eagly 1998, McDonald 1998a, 2000). I completed my Masters of Arts at the Ontario Institute for Studies in Education of the University of Toronto in 1998 having focused my coursework, research and thesis on public legal education. My Masters thesis provided a strong foundation for the development of this particular study.

I first worked at the Centre for Spanish Speaking Peoples in Toronto in the mid-eighties during high school. In the early nineties, I worked there as a law student in the Legal Clinic and finally, several years later, as a board member, when I was the board liaison for the Legal Clinic and the Women's Program. The Women's Program provides lay counselling and information to Spanish speaking immigrant women who have experienced domestic abuse. The legal needs of these women are immense, but the Legal Clinic, because of the structure and limitations in legal aid funding in Ontario, does not do any family or criminal law. The staff of the Women's Program have not been trained to address these legal needs and in many instances, the needs of their clients are only partially met or not at all.

Having a history of involvement and some understanding of the unaddressed needs of the clients of the Women's Program, I sought their participation from the beginning stages of my doctoral research. Action and the eventual transfer of the project to the community were important goals to me and the Women's Program. As such,
feminist participatory research, rather than a different type of action research, seemed appropriate.

**The Research Team**

As doctoral research, there is work that the doctoral student alone must carry out and complete. In the practical aspects of the project, the staff at the Women's Program - Maria Rosa Maggi, Ruth Lara and Viviana Fleming - and I worked as a team. My supervisor, Professor Shahrzad Mojab, was available and provided guidance and support on all aspects of the project. I also had assistance from Afsaneh Hojabri, a researcher, with the organization of the workshop. In that regard, this project is a partnership with the Centre for Spanish Speaking Peoples and the Ontario Institute for Studies in Education of the University of Toronto.

**The Research Phases**

The first phase, "Organization of the Project and Knowledge of the Working Area," took place over the many years I had worked in the area, both in Canada and Latin America. As is often the case in participatory research (though not the ideal), the research idea was proposed by me and I sought out the participation of the Women's Program at the Centre for Spanish Speaking Peoples. The Women's Program was receptive to the idea. We met for the first time in October 1999. I talked about the research project and we discussed some of the potential problems. We also defined more specifically the needs of the participants in order to enable their participation.
The women themselves, however, were not consulted directly in this process of defining the objectives for my dissertation proposal or the ethics review protocol. It could be argued that as such, even the second phase of participatory research (Generation of Problematics) was not truly participatory. A series of meetings, however, took place through 1998-2000 and in each meeting, the specific knowledge of the staff has been incorporated into all the phases of the research process thus ensuring that their years of experience working with women was included.

As one of the objectives of the research was to define the legal education and information needs of the women, the individual semi-structured interviews were integral in this process. As such, the second phase, “Definition of Generation Problematics,” included the individual semi-structured interviews with the participants. It is in this phase that the particularity of the women’s experiences (Schneider 1992) will be focused upon. The final three phases, Objectivization and Problematization, Researching Social Reality and Analyzing Collected Information, Definition of Action Projects will be discussed in further chapters. Importantly, throughout the research process, the team paid attention to the use of language and gender, particularly in the Spanish language.

While the identification of phases can certainly assist in the planning and understanding of feminist participatory research, rigid adherence to them does not permit flexibility in the research process for rarely does research occur in a linear mode. As such, I have chosen not to record the process by phases.
Suggestions of Research Partners

During our meetings, many suggestions were made by the staff of the Women’s Program and were incorporated into the process and design of the techniques used. At the first meeting, the staff had three important comments. One counsellor believed that what the women need most is representation, not education, as they face immediate survival challenges. Education addresses longer term issues. I, as researcher, would not suggest that education could be a replacement for representation. It was agreed that throughout the course of the project, I would assist them in developing links with practicing lawyers to address this need.

Second, the staff asked for stipends for the participants and transportation costs where needed. Third, the staff also suggested that a longer focus group of a couple days would be most productive for a number of reasons: the women might not attend a 1-2 hour focus group; the days together would enable the women to develop trust between themselves and between them and the researcher; the additional time would help develop stronger problem solving skills; and, the event could also serve as a special event for them.

During the meeting, we discussed funding, outcomes, and the use of the Centre’s name in publications. Regarding the third point, it was agreed that the women would be ensured confidentiality by changing distinguishable characteristics and by presenting the data in an aggregated form. The Centre’s name, however, would be used and this would be clear in the consent form. It was also agreed that the Centre’s name would appear on any materials that were generated out of the project.
Throughout the research process, the staff provided further input around the development of the interview guide, in the translation and simplification of the consent forms, and in participant recruiting.

**The Research Techniques**

Drawing upon my work in Chile with low-income single mothers (McDonald 1998b), I had conceptualized the research process as one that would move from individual to collective interaction and data collection and would also incorporate the necessary elements of participatory research - investigation, education, and action.

I wanted to begin with individual interaction and data collection for three reasons. The first reason was to enable me to fully understand the particularities of each woman’s experience (Schneider 1992) and I believed that time and individual attention was necessary to accomplish this. The second reason was to begin to develop a trusting relationship with each participant, considering that I would be an outsider. The third reason was to have a one-on-one opportunity to fully explain, from an educational perspective, the research process to each woman and give her the opportunity to think about the stages to come. My experience in Chile had shown me that when not accustomed to providing feedback, women may devalue their ideas (McDonald 1998b). The individual interview would help prepare each woman for coming together with the other women, and help her trust her ideas and the problem solving that would follow.

Interviewing is a common method used to collect qualitative data. We know that,

The use of semi-structured interviews has become the principal means by which feminists have sought to achieve the active involvement of their respondents in the construction of data about their lives (Graham 1984, 11).
The main purpose of an interview is "to obtain a special kind of information" (Merriam 1990, 72). Interviews allow the researcher to enter into the other person's perspective. There are several different types of interviews that can be used and this will be decided by the amount of structure desired. Highly structured, questionnaire interviews are at one end of the continuum, with open-ended, conversational interviews at the other.

In the middle of this continuum is the semi-structured interview, which I chose to use for my research. Here, certain information is "desired from all the respondents" (Merriam 1990, 74). An interview guide with a list of questions is prepared ahead of time, but the wording and the order of the questions is flexible. Thus, the researcher can respond to new ideas and viewpoints that emerge during the course of the interview. Importantly, as well, the semi-structured interview would allow me the opportunity to explain the research process and the women's role fully and respond to any questions that arose. Thus, the semi-structured interview could fulfil the investigation and education components of feminist participatory research.

As noted earlier, my original suggestion for a focus group, which would provide the collective setting for the women that I believed would facilitate problem-solving, evolved into a retreat and workshop. The workshop that was developed and conducted with all the women participating fulfilled all three components of feminist participatory research — investigation, education and action. The retreat and the workshop together incorporated the needs of the women in many ways: the need to develop trust amongst each other and with me, the researcher; the practical needs of child care, transportation and food costs; the need to get away from the city and routine; and importantly, the need for the right atmosphere in order to talk and share experiences and ideas with one
another. The workshop would incorporate educational activities, as well as the brainstorming that often occurs in focus groups. The research literature does not identify “workshop” as a distinct feminist research technique (but see Horsman 1999). Yet the use of this technique demonstrates the dynamic nature of feminist research for in developing this technique, we were being responsive to the needs of the participants in the project to ensure that they would be positively affected by the process.

After investigating some possible locations, we decided to use Hart House Farm of the University of Toronto for the retreat as it fit all our needs and was affordable. Because it had been booked for much of the summer, we chose the dates of July 28-30th. This meant that one of the staff would be away on vacation and all interviews needed to be completed and the retreat to be organized prior to the 28th of July.

Ethics

An Ethical Review Protocol was completed before the research began. The Protocol was submitted to the Education Ethics Review Committee (Human Research) at the Office of Research Studies in April. Changes to the consent form and more details were required and approval was subsequently granted.

The potential participants were contacted initially by telephone by the staff of the Women’s Program to explain the objectives of the research and request their participation. The staff gave me the names and numbers of the women who had indicated their willingness to participate, at which point I contacted them and set up a time and place convenient for the interview.
Prior to the interview, a consent form in Spanish or English was presented to the participant. The methodology, objectives, risks and benefits of participation in the study were explained to each participant, in Spanish or English as requested. Confidentiality was ensured with the exceptions of illegal immigration status and unreported cases of child abuse. It was also explained that the Women's Program and the Centre for Spanish Speaking Peoples would be named in the final report and in any publications or presentations. Each participant completed two consent forms, one for herself and one for the researcher.

Only two women had questions concerning the study before we began the interviews. One related to confidentiality during the workshop/focus group. The other related to my obligation to report previously unreported cases of child abuse. As Children’s Aid was already involved in this woman’s situation, she asked for clarification on these implications.

Consent forms were also presented to the participants at the beginning of the workshop. There were no questions regarding these forms. Confidentiality was discussed among the group and included in a group agreement at the beginning of the workshop.

Selection of Participants

The majority of the women I interviewed were clients or otherwise known to the staff of the Women’s Program. The criteria for participation was simple: Spanish speaking immigrant who had experienced abuse in an intimate relationship and availability to attend the interview and retreat. We used a broad definition of abuse to include psychological, emotional, verbal, physical, sexual, and economic abuse.
There were several limitations in the selection of participants as noted earlier. It is recognized that in limiting participation, the study did not include certain women. The needs of these women are no less important. The staff, as the primary service providers for these women, were able to address some of these needs.

Participants

A total of twenty-one women were contacted and seventeen interviews were scheduled. Three women did not show up and re-scheduling, although attempted, was not possible. A total of fourteen women were interviewed, thirteen of whom had been identified through the Women’s Program, although not all were or had been clients. One woman became involved through a friend who had been interviewed.

These women originally came from a number of countries in Latin America and the Caribbean (Mexico, Guatemala, Nicaragua, El Salvador, Chile, Ecuador, Peru, Venezuela, and Cuba). Their ages ranged from late twenties to mid-sixties. All, but one, had children, and several had grandchildren. Their backgrounds were diverse: poor to middle and upper class. Some had only primary school education, while one had a masters degree. Most had some high school education. They had been in Canada from between two and twenty-five years. Their level of English proficiency varied dramatically. Two of the women who had come to Canada when they were children felt much more comfortable speaking in English, than Spanish. Two other women chose to be interviewed in English, with some Spanish. The other ten women all spoke in Spanish.

All the women had experienced some form of abuse in their intimate relationships – psychological, emotional, physical, sexual, and/or economic. Only one woman was still
living in the same household as her spouse. All the women had had some experience with the Canadian legal system whether for immigration, family or criminal issues.

All the women had legal immigration status in Canada, most as permanent residents or citizens. Only one woman, who was awaiting her refugee hearing, did not have a permanent status in Canada. Most of the women had obtained their permanent residency status through marriage. Sponsorship breakdown had occurred. Three had obtained their status as dependents (one as a mother, two women who came as children to Canada) and three women had made refugee claims.

The Interviews

As noted, the staff themselves made the initial contact with the women and as a result, my credibility was established from the outset through my connection with the Women's Program. As such, when I first contacted the women, they knew who I was and what the project was about. I spoke Spanish unless they requested that I speak English. In many ways, I bridged the gap between academe and/or the legal profession and their reality. As an Anglo and certainly with my white skin, English skills and my university degrees, I represented privilege. Yet I also spoke, while far from perfectly, their language. By not speaking it perfectly and having my own insecurities with it, the women and I could empathize with each other over the barriers that language can create. I also am a woman who dresses casually, not as a professional might, and I arrived at their home on my bike. I had lived or travelled in some of their home countries and we would talk about towns, food, and people. We talked about people we knew here as well through English as a Second Language classes, the legal system or other social services.
Before beginning my interviews, I had made a conscious decision that I would limit the personal information I disclosed to the women. I believed that this project was not about "me" and that I did not want to bias the data anymore than I might. I did not discuss this decision with my supervisor or any of my colleagues. So I told the women that I was a lawyer who was not currently practising, that I had worked and travelled in Latin America and learned to speak Spanish there, and that I was now doing my doctorate in the area of education and the law. I was very interested in hearing about their experiences with the legal system, and particularly what role information and education did play or could play to improve legal services for Spanish speaking women who have experienced domestic abuse.

The interviews took place between June 25th and July 27th. Each participant was interviewed once and they were given $25 in cash as a stipend. The interviews were tape recorded with consent. They lasted approximately forty-five minutes, although I usually spent an additional hour with each woman explaining the project and talking. One interview lasted over two hours.

The interviews were transcribed in English or Spanish. In most cases, transcription was verbatim. In some cases, segments would be skipped and noted as such, where recording was not clear due to background noises or the topic being discussed (such as the weather) did not pertain directly to the questions asked.

I completed the transcription of the interviews mid-September. Two copies of transcribed interviews, with an explanatory letter in Spanish or English, notes from the workshop, as well as photographs from the workshop were mailed to each participant. Participants were asked to read the transcripts, make any corrections they wished and
return them to me in the envelope provided (addressed and stamped) by the end of September. Comments were received from one participant.

Oakley (1981) notes that we tend to report on the statistics of interviews – the number, the length, the questions asked – rather than the quality of interaction, hospitality offered, and the feelings of both the researcher and participants. I pause here to note that I have included the former information (the statistics) consistently when I have written about this research, and the latter qualitative information only in certain cases. Such reporting shows how strongly influenced I, a feminist researcher, am by the dominance of traditional research.

**The Research Process**

My grandmother passed away the first week of July and I took several days off to attend her funeral in upstate New York. The staff and I had planned to meet during this time to discuss the retreat, but I had to cancel this meeting. When I returned, there remained just over two weeks to organize the retreat and conduct the remaining interviews, as I had only completed three at that time.

These two weeks were extremely busy. As I was also working part time as a researcher on another project and had only requested time off for the retreat itself, I could only do interviews on Wednesdays and Fridays. Twice I completed three interviews in one day. I did most of the interviews at the women's homes. I had three interviews scheduled at the university and none of these women showed up for various reasons. I conducted two of the interviews in a hospital cafeteria. All but four of the interviews were done in Spanish.
In collaboration with my supervisor and the staff, I had prepared an interview guide. Yet it was important that the interviews were participant-guided and I told the women these interviews were more like conversations, to avoid the formal term - “the interview.” I allowed them to talk and tell me about themselves, asking questions where I sought clarity or more detail. Some had trouble talking about themselves at first, so I would ask them simple background questions and none had trouble talking once they had started. It is through the interview that we can access people’s ideas, thoughts and memories in their own words.

My goal had been to complete each interview and immediately transcribe it. This would have afforded me the opportunity to review the data thoroughly and adjust my own questioning if needed. I was able to do this for the first three interviews, but due to a lack of time it was not possible to do it for the rest. Indeed, just trying to complete the interviews before the scheduled dates for the retreat required all my energies.

The issue of providing information and assistance to my participants was an area addressed by the ethics committee prior to receiving approval for the project. Christine Webb (1984) also addresses this issue in her work. When I revised the Ethics Protocol with Professor Mojab, we were required to provide detailed information on how we would deal with any traumatization that might occur for the women during or after the interview. I conducted each interview knowing that the women might need support or counselling and legal information. With the exception of two of the women, each had immediate access to a counsellor at the Women’s Program. During the interviews and immediately thereafter, outward signs of distress were minimal.
Many of the women asked me legal questions, probably because I was approachable. Most often I would refrain from answering. While a member of the bar, I am not insured to practise and my own knowledge in the area of family law is limited at best. It would have been professionally irresponsible of me to address their concerns. I explained this to the women and in most cases, I was able to give them a phone number, but the reality is that the information they were seeking is not always accessible. Sometimes this questioning occurred after the tape recorder had been turned off. More than anything, I believe the questions and my limited responses highlight the very nature of my research – the vast and unmet legal information and education needs of the women.

While I had assistance with some of the organization of the retreat from a research assistant, I remained the principal co-ordinator. I had contact with the women and with the staff and I was ultimately the one responsible. It was my name on the contract with Hart House Farm. I had responsibility for the finances. As a result, I expended a great deal of energy organizing the details of the retreat: coordinating the child care, ordering food, purchasing all the items needed, developing the workshop, etc.

This process, both the interviews and the organization of the retreat, was too rushed. The lack of time caused a number of problems. Importantly, I did not take care of myself. I felt incredibly stressed trying to get the interviews done and I quickly became exhausted, both physically and emotionally.

Not only was the pace too hectic, but the painful stories of violence and abuse also caused me to react. During the interviews, I maintained a connection and would often just listen and remain silent. My only comment would be, “I’m sorry.” It seemed appropriate because I was so very sorry. Once I left the interview, however, I found
myself disconnecting. As I noticed it happening, I believed this distancing was my survival technique. I had to be efficient. I did not have time to reflect. I could not become emotionally engaged with the women or the stories I was hearing because I did not have the time. I did not have the time to feel their pain or the pain it might trigger in me.

Reinharz (1992, 34-35) discusses how the ethic of commitment held by feminist researchers exposes them to stress. Having worked with many individuals who have experienced violence and loss, I believe that I was prepared for much of, but not all, the pain that the women told me about. I do not believe, however, that I had the social support from other researchers and colleagues that I needed at the time. When I talk about my research to others, I consistently emphasize the importance of having support throughout the process.

I met with the staff the Friday before the retreat. At this meeting, we discussed the logistics of the retreat – the bus, the time, the food, the childcare, the sleeping arrangements, the activities. Most of their suggestions, which were terribly practical and important for me as someone without children, were incorporated into the planning. I had faxed an outline of the workshop to them at the beginning of the week, but they had not received it. I remarked that faxes seemed to have gone missing more often than not at the Centre. Briefly they looked at the outline and suggested that I must be flexible and be prepared to cut out some activities, especially if the women wanted more time to talk. I cut out two of the shorter activities that I had planned. I had been hoping for more input and some guidance from them. I would be conducting the workshop in Spanish, which is not my first language and I recognize my limitations in the language. I had carefully written out directions for each activity so that my language usage could be checked. I also
hoped that they would share some of the facilitation so that I would not be the only one in that role. One staff agreed to assist, but then noted that since it was "my project", she was not sure what I really wanted. I did not pursue the subject as our meeting time was running out.

Perhaps it was at that moment that I began to realize the difficulty with the concept "participatory." When I first approached the Centre, they agreed that the project would be important for them to better understand and hence address some of their clients’ needs and certainly some of the problems they encounter with the legal system. The project, however, would not likely respond to the problem of legal representation. They also made it clear that they, the staff, are service providers. They must attend to the daily needs of their clients and would not have excess time to spend planning or searching for funds. Having worked at the Centre in a variety of capacities, I am well aware of the incredible demands made on staff time. One of the limitations of participatory research is it is resource intensive (Maguire 1987). My own time and energy were being exhausted. I believed that I could not ask that the staff exhaust their time and energy as well.

As such, throughout the process of co-ordinating this project, I tried to maintain the balance of seeking and incorporating their participation at all stages, without demanding too much of their time. As one staff noted early on, the more time they spend in meetings or on research projects, the less time they have for their clients. So we would book regular meetings and I would show up with the work already started – the translation of the consent form, the interview guide, the time frame, and the workshop. I would get their feedback and make changes accordingly. Their feedback was critical and I believe it did
bridge the gaps between the researcher and the participants. Yet I remained throughout the process, the organizer, the leader.

Participatory research calls for leadership. This leadership will often come from the initiating researcher. During this first phase of the project, because of this, everyone saw it as "my project" and not, "our project." Most participatory research projects start with the researcher’s commitment (not the participants’ or the organization’s) to an alternative approach to research. This was certainly true in this case. In the first meetings, the staff of the Women’s Program had criticized researchers from universities who had studied them and their clients and then left. So they were certainly receptive to a different approach, but I still provided the impetus and the leadership.

The Retreat

On Wednesday, July 28th, the women gathered at the Centre at 9:30 A.M. with their belongings. One staff met the women and children and came up on the bus with everyone. I had tried to contact all the women and speak to them personally to confirm their attendance. Two had called to say they could not attend. There were two who did not show up on the day. One came up to the farm on Thursday with the second staff. Afsaneh and I went food shopping. We also picked up a cake and trays of sandwiches for lunch. We arrived at Hart House Farm about fifteen minutes before the bus.

People unloaded and I greeted everyone personally. It felt good to see these women and their children. I had only met them once before, but as we embraced, I felt like we were old friends. I made a few announcements – no swimming in the pond without your mother; this is our house and the other one belongs to the caretakers, etc.
Everyone sorted out where they would sleep and we set off on a short exploration of the property. We returned and had lunch. Then a group of us went to the pond for the afternoon. Some of the women and children stayed at the house and relaxed or played.

Before dinner, almost all the women relaxed together. The children were left to run around which they did. They were noisy and rambunctious. I, being the one ultimately responsible for everything on this trip, worried that an accident might occur. The vigilence of the individual mothers varied considerably. The mothers with the youngest children were wonderfully attentive. Among those with older children, it varied. The staff and I had agreed that the women would be responsible for their children all day Wednesday and Thursday evening and this had been clearly conveyed to the women. Yet I ended up stepping in to suggest games for them, read to them, play with them or just supervise them. In doing so, I reinforced my role as leader, organizer, authority figure. I was also prevented from joining the women and getting to know them, or letting them get to know me as anyone but the authority figure. They were having some wonderful conversations together as a group. I also did not have any time to myself to take care of my need for quiet and relaxation.

On the other hand, by playing with and taking care of their children, I immediately earned the trust of the women. Many of them thanked me for taking their children swimming or being so good with them. It was also important for the children that they have one authority figure. They believed that the house was mine. They knew it did not belong to anyone on the bus. I was there when they arrived. I had all the food. I was the one in charge. So when I made a rule, they followed it, or they asked my permission to do things. Having this authority figure was very important and helped to
maintain some order over the three days. Overall though, in spite of these positive aspects, I felt frustrated by the children and the need for someone, and it ended up being me, to supervise them constantly.

We had a barbeque for dinner and I sent the children off on a scavenger hunt which kept them completely occupied. At this time, we, the women, really relaxed and started to build human pyramids. This was a wonderful moment during the retreat when we all were laughing and working together for this one simple goal – a human pyramid. Some photographs capture this moment well. These photographs have been used internally to reflect on the research project and each woman has a set to keep as a reminder of the retreat.

On Thursday morning, I drove to Brampton to pick up the two babysitters. Due to a mixup of bus schedules, one arrived at the coordinated time, but the other arrived on another bus, some 45 minutes later. So we arrived late back at the farm. It was after 10 A.M. by the time the children were collected and sent off with the babysitters and the women had gathered in the front room of the house for the workshop.

**The Workshop**

Focus groups are a relatively new qualitative research technique. A focus group is a group interview with a small number of people who discuss specific issues for a set period of time, usually one to two hours (Neuman 1994; Patton 1990). Focus groups assist in generating ideas because they encourage brainstorming. As noted, the staff believed that the women would not attend a two-hour focus group and thus, the retreat
was organized. A workshop was developed to include some educational activities and consultation.

During the workshop, I used a variety of participatory activities which allowed the women to design a legal education and information program to address their needs. Because I had interviewed each woman individually, I was familiar with her experiences and her individual needs. Without revealing any of that data, I structured the workshop to reflect those identified needs.

We began with introductions and the opportunity to talk a little about ourselves and our expectations. I brought out a number of objects such as postcards, a measuring tape, buttons, figurines, etc. and we each selected an object. One by one we introduced ourselves, explained why we had chosen that particular object and what our expectations were for the day. I wrote down the expectations on a large sheet of paper that was left on the wall. The expectations included: learning about the law; advantages and disadvantages of resolving problems with the legal system; women's rights and laws that protect women; learning something new about life; knowing the experiences of the other women; learning where to go for assistance; understanding common interests; learning from each person and from the group; having more energy to resolve problems; and getting to know one another. After summarizing the responses, I thought it important to point out that we would not be learning about the law specifically that day. This expectation was mentioned by several women and it made me realize how much they want to understand and learn about the law.

This was evident as well during the interviews when they would ask me legal questions. I had prepared folders of materials for the women which included an agenda,
an evaluation form and examples of materials now available: the Child Support packages, different materials available on websites (one in Spanish), and some other basic information in English. Knowing from the interviews that their needs for legal information and education were diverse and great, I did not feel it was possible to do a consultation and provide information in the one day. I had explained this to them at the time of the interview, but it was obviously not clear or perhaps the women were just expressing what they truly wanted out of the workshop.

The issue had also been raised by one of the staff as we discussed the ethical review and drafted the consent forms. She was very concerned that the women who would participate would want and expect legal assistance and information. She wanted it made very clear on the consent form that legal assistance would not be available.

After the expectations, I explained the consent form. We read it out loud together and there were no questions. The women each signed the consent form and the assurance of confidentiality led into a discussion about a group agreement. We put together a group agreement that we agreed to use for the day based on respect, trust and confidentiality. During these first two exercises, all the women participated equally.

I then led the women through an exercise designed to understand our differences and similarities, as well as privilege and discrimination. I read out a phrase that described an aspect of our lives (for example, I am an immigrant). If the phrase described the woman, she would cross the room. If it did not apply, then she would stay where she was. The next phrase would be read and the women would again stay in the same place or cross the room. The list of phrases is found in the workshop curriculum in Appendix C. After the phrases were all read, we discussed how we felt during the activity. Again, all
the women participated quite well. They felt supported and stronger when they all crossed the room together. One woman felt sad when we spoke of families without fathers. Several women agreed with this. I had chosen this phrase in particular because during one interview, a woman had told me the she had stayed so long with her abusive spouse because she had grown up without a father and she wanted her children to have a father. Two women commented on how they felt marginalized when we spoke of the level of education we had and of using food banks or receiving social assistance. Finally, one woman commented that she had felt very alone when she happened to be the only person on one side of the room.

We then talked about surprises. Several women noted how much we all had in common (having an accent, being immigrants, being single mothers and being women). As well, we all shared negative experiences. Finally, we talked about any confusion during the activity. There was confusion around the use of the term “colegio” or college for level of education because college in Ontario means something different than in many other countries. As well, there was confusion around the use of the term “mujer soltera” or single woman. These confusing aspects were raised by one of the staff. I felt somewhat frustrated because this was the staff member whom I had asked to read over the workshop materials. I believed that if she had, the confusion would not have arisen.

We then did an activity to identify barriers in accessing the legal system – both in theory and in practice. In accordance with Maguire’s articulation of feminist participatory research (1987), a discussion of gender had a central place on the agenda. The educational component of participatory research can give participants a way to develop an understanding of social problems, their causes and ways to overcome them. To avoid
confusion around the use of terms, I began this activity with the women defining what the
term barrier meant to them. It meant an obstacle, to block, a “stop”, when you cannot
advance, a limit, to not succeed, frustration, and it can be physical, economic, social or
emotional. We also defined “legal system” and for the women this included institutions
and agencies (Children’s Aid, the courts) and their workers, lawyers and law students,
judges, and police.

We then divided into three small groups and our task was to answer four
questions that I handed out to each group. These questions were developed based on the
individual interviews when the women had talked about their difficulties accessing the
legal system. Each question required us to talk from our own experiences. At this point
the other staff and another participant had arrived. So I joined one of the groups as a
participant. After forty-five minutes, we came back together as a large group and
consolidated our answers on paper.

The first question was “Who helped you to make the decision to approach the
legal system?” The answers included: a school principal, the Centre for Spanish Speaking
Peoples, friends, a social worker, a doctor, no one. The second question was “Did you
have models to help you make a decision to approach the legal system?” Some women
did, some did not. The models included: friends, a cousin, and counsellors at the Centre
for Spanish Speaking Peoples. The third question was “What factors helped you approach
the legal system?” The women were given examples such as level of education, money,
English fluency, amount of time in Canada. This question was difficult for some. The
most often cited response was having had access to the Centre for information, translation
and direct support. Other factors included: knowing what to do and speaking English with
confidence. One woman noted that being in the country made no difference as each legal problem would be different and would need a different understanding and resolution. No one talked about money or the lack of it.

The last question was "What are the conditions that Spanish speaking women who have experienced domestic abuse in their lives need to be able to approach the Canadian legal system? The women unanimously identified: information and understanding, knowing English, knowing where to go for support, support (emotional and moral, direct and indirect) and an understanding of domestic abuse and its impact.

After a break for lunch, we did two more activities. The first was to identify the women’s legal information and education needs. The second was to design a program that would address these needs. Again, all the activities started from the women’s experiences.

The women identified the following legal information and education needs:

1.0 Family law – process, options, cost, and our rights
   1.1 Child support – in Ontario, in other provinces, in other countries
   1.2 Kidnapping of children – international agreements, citizenship, dual citizenship
   1.3 Custody – joint, sole, benefits, disadvantages, options
   1.4 Separation of property
   1.5 Separation and divorce
   1.6 Economic situations – how custody, access and support are not related

2.0 Legal Aid – criteria used, types of cases, how to appeal

3.0 Immigration Law – process, options, cost, and our rights
   3.1 Refugee issues – criteria, alternatives (humanitarian and compassionate applications), when domestic violence qualifies as a refugee claim
   3.2 Sponsorship breakdown

4.0 Young Offenders Law – process their rights, our rights as mothers, costs, options

As well, and in no particular order, the women wanted to learn about:
- Resources to help them with and through the system
The legal profession – both the women’s responsibilities as clients and the lawyers’, what does a retainer mean, options

Legal vocabulary

Work opportunities and training

Name change

How to start a small business

In the next activity, the women in small groups designed a legal education program to address their needs and the needs of other Spanish speaking immigrant women who have experienced abuse. The first question was “How would you like to learn this legal information?” Examples were given. The women responded that they would like to learn in Spanish, using their experiences, collectively, with visual materials, with a clear and simple content, with professionals (not necessarily lawyers but those who would have an expertise in the topic area), with visits to the courts or tribunals, and with supporting materials such as a bibliography to help if they wanted to learn more. Importantly, the women wanted to learn with other Spanish speaking women participating and supporting, both in a group context and individually. The women also suggested a telephone information line and putting information at the airport. Most of the women, including the staff, believed that the Internet would not be an effective way to disseminate information because few had computers at home or the skills to use the Internet.

The second question was “How can we decrease the barriers that we identified earlier?” As the lack of English was identified as a major barrier to accessing the legal system, women suggested incorporating legal content into English as a Second Language (ESL) classes. The women also talked about the lack of information especially in family law matters. They suggested putting written information (like the CLEO pamphlets) in places like supermarkets, doctors’ offices, churches, schools and community centres. The
need for more Legal Aid resources (more lawyers, more coverage) was also stressed. The women felt that a directory of lawyers who would take Legal Aid cases and understand the issues of domestic abuse and immigrant women would be very helpful. It could be used by a number of community organizations.

The last question was "What are the important details of the program?" Again examples were given. The answer to this question provided a framework for the women to visualize a program that would address their needs. First, there would be different programs for women with children, women and men, and mixed classes with other goals, such as ESL classes. The program could be conducted as an intensive retreat away from the city or for example, four two-hour sessions somewhere in the city. The women want to learn in Spanish. They want to learn in a place that would be familiar, accessible, well lit, and spacious. A retreat could take place somewhere like Hart House Farm.

The women felt that group learning and dynamics were very important. Skits and role-play would also assist learning. Necessary resources include childcare, transportation and refreshments. There should be audiovisual materials such as videos, as well as printed materials. Personal experiences should be used and discussed or dramatized.

The final exercise was evaluation. Everyone filled out a short evaluation form that asked what they had learned, how the workshop could be improved, and if they wanted to continue to participate in the project. The women learned:

- That we have many rights and we can try to understand and enforce them without fear
- That there is the possibility to learn how to use the legal system
- That there is interest in a program to bring support and information to us, even though we are only in the investigation stage
- From the experiences of other women, information about family law and custody
- That we need legal education and resources
- That it is important to talk about these issues with other women
- That there do exist ways to learn about the law
• That we need to learn much more
• About many new experiences
• That it is possible to leave “stress” behind in the city
• How to participate in a workshop
• Different ways to help women who have different problems
• That there are places I can go for assistance
• How our experiences could help other women
• How to get information

The women thought the workshop could be improved by:

• Spending more time on introductions
• Continuing with what we have accomplished today
• Having more time and more information about the law, answers to all our questions
• It was excellently organized!
• Working with more audiovisual materials
• Seeing and using practical cases
• Having less noise from the children
• Doing this more often
• Continuing to teach women about all these things
• Having even more participation

The women were also asked if they wished to continue participating in the project. All indicated that they did and in the following ways:

• By becoming part of the group, and giving of my time and energy
• As a volunteer, participating in the development and publicity of the program
• Organizing groups, offering workshops, giving information, supporting throughout the legal process, providing emotional support
• Collecting and distributing information
• Participating in a peer support program
• Providing comments as the program is developed.

Then we all received cards on which to write something positive about each member of the group. These cards were placed in separate envelopes with everyone’s names on them and women took these envelopes with them. As an ending, we were able to read out one of the cards that we particularly liked. An outline of the workshop can be found in the Appendices.
I facilitated the larger group activities and in doing so, reinforced my role as leader, co-ordinator, organizer, researcher. I was all those roles and more at times, but I was always the outsider. Except for one moment. This moment occurred during one of the small group discussions. We were talking about the first time we had accessed the legal system. The legal system was defined previously by the group as lawyers, the courts, the police, or any of the agencies that support the legal system (Children’s Aid for example). In the activities up to this point, because we had done them in a larger group, there was a need for some leadership. In this case, we had divided into three small groups. I was in one group and a staff was in each of the other two groups. As such, I did not feel any need to play the leader role and perhaps because of this, I felt I could participate as one of the women rather than as a facilitator. Perhaps it was also timing, that I knew these women much better than I had the first time I met them. Perhaps I felt more comfortable with them.

The three other women had each talked about their first experience accessing the legal system and what barriers, if any, they had faced. I told them how I had found my grandmother after she had been raped and murdered. In that moment of my telling, I was no longer an outsider, but one of them. I felt the change. I could see the change in their eyes. They murmured their sympathies. I quickly moved on to talk about what I had needed most – support.

The Last Evening

By the end of the day, I was tired. A group of us went swimming in the late afternoon and then I drove the two childcare workers and Afsaneh to Brampton to catch the bus back to Toronto. I stopped to pick up some more pop and juice as the supply had
been depleted. This was my break time, away from the children, where I was on my own and I could feel how tired I was. I returned to find that no one had read the instructions for cooking the lasagna. I was desperately needed in the kitchen to interpret 400 degrees and 45 minutes. This was another example of how I was seen and deferred to as the leader. When the lasagna (which had been cooking at 200 degrees for thirty minutes) was finally ready, amidst jokes of “Canadian dinners”, we ate. The cake for the children was brought out, pictures taken and there was talking into the night. The children “camped out” in the living room for the night in great spirits of new-found friendships.

The following morning, we arose, cleaned up and returned to the city mid-day. I gave each of the women a candle as a thank-you gift as good-byes were said. More pictures were taken of the group and individual shots with me and the women and their kids. I saw this as another example as how I stood out from the group.

**Part III - Reflections**

I expected that upon completion of the data collection, I would feel exhilarated and proud, albeit exhausted. And yet in the weeks following this completion, I certainly felt exhausted, but also lost. The day I returned from the retreat with the women and children, I cried. I believed that the results and conclusions to be drawn from this experience were exciting and important. Challenges had surfaced in the process and in my role as the researcher for which I was not prepared. I needed to better understand my role as a feminist researcher and the research process itself.

My first thoughts in the hours after I returned to the city turned to my own self-disclosure and the change in dynamics in the small group that it seemed to have produced. I began to think that I had made a vital mistake in my research. In not talking
to the women about my own personal experiences with violence, I had remained disconnecte1 from them, as opposed to being one of them. Therefore I had not truly challenged the hierarchy implicit in the researcher/participant relationship. I further criticized my research decision arguing that this lack of self-disclosure must have also affected their disclosure. In some of the interviews, the women had been very open with me, telling me about their experiences with abuse, even the sexual abuse. In others though, the women had been reserved, referring only to “problems.” I did not probe further when they chose to be vague about their relationships.

Yet as I reflected further, I reasoned that the women chose to be vague for many reasons. I was, I believed, afterall, an outsider. They did not know me at all before our first meeting. The introduction was made through their counsellor, but they did not know me. Given that, it was very understandable that they would not want to detail the abuse in their lives to a stranger whom they had just met.

My first thoughts could not be sustained for long since any challenge to the researcher/participant relationship cannot be based solely upon the researcher's own background or experiences or her disclosure of these experiences. The challenge is to break down the hierarchy implicit in the researcher/participant relationship, which is an underlying principle of feminist participatory research. In order to break down this hierarchy, there must be sufficient resources (time, energy, money), as well as the commitment, experience, understanding and empathy of the researcher(s). Empathy is a critical component of feminist participatory research. I believe that I am an empathetic person and that this is evident in my work. I believe I bring understanding and commitment and some resources to my research projects. I perhaps lacked the experience
to anticipate my own frustrations and difficulties around self-disclosure. Importantly, I was consistent in my approach to each interview so that all the women heard the same information about me. And with experiences such as this to learn from, I can only deepen my understanding of the complexities of feminist research and incorporate my own insights into future work.

Almost twenty years ago, Oakley (1981) argued for a new model for interviews that would be guided by an ethic of commitment and egalitarianism. Intimacy and self-disclosure would be key features of this model. Patti Lather suggests that the most effective emancipatory approaches include: interactive interviews with self-disclosure, multiple interviews, group work, and negotiation of the interpretation of the data (1985, 23-24 as cited in Reinharz 1992, 185). This last approach would most certainly include the review of transcripts and could also include a review of and the opportunity to provide comments on the researcher's analysis. Most of her suggestions have been incorporated into the research process.

From a slightly different perspective, Webb (1984) addresses the issues of providing information and helping participants. She found that she had no choice, but to invest her subjectivity in the research and develop intimacy with the women. This provided her with data that fully captured the depth and richness about their feelings and experiences. Reinharz notes that for many, self-disclosure is good feminist practice (1992, 32). She does not, unfortunately, elaborate on the reasons for this, though I would suggest that self-disclosure can help foster trust, identification, and a more equal relationship. Mies argues that we must integrate our "... own experience of oppression and discrimination into the research process" (1983, 121). We need to take our own
experiences as a place to start and use these experiences to guide us (1983, 122). Many
questions remain for me as how to incorporate these ideas into our research. My own
experiences certainly guided me throughout the research process. This was evident in the
attention I paid to the impact of trauma on learning, my empathy for their own
experiences, and the attention paid to the details of the retreat.

Du Blois notes that traditionally, the observer and the observed must not
"contaminate" the other if the research is to be truly objective (1983, 111). Yet in
feminist scholarship, it is assumed that "the knower and the known are of the same
universe, that they are not separable" (Du Blois 1983, 111). Du Blois further notes that if
the dichotomies of objectivity and subjectivity are maintained, these polarizations make
experience and reality false. Duelli Klein speaks of "intersubjectivity" or an
interrelatedness among all participants – the researcher and the subjects (1983, 94). She
suggests that this dialectical relationship between subject and object will permit the
researcher to constantly compare her work with her own experiences as a woman and to
share this with the researched, who will add their opinions to the research.

Mies also believes that "conscious partiality" is critical for feminist research
(1983, 123). This is achieved through a partial identification with the research participant
and is the opposite to being indifferent or disinterested. It is important that feminists
identify with their participants, but I suggest that there are several levels of identification.
"Conscious partiality" and Du Blois' ideas of being of the "same universe" represent a
threshold level of identification, which must be a basic requirement for feminist research.
I would see this as having a strong critical understanding of the context, obtained through
reading, studying, experience, and dialogue. I believe that I achieved this "conscious
partiality” through my years of work, study, and reflection on women, Latin America, violence, law and learning, and the many intersections.

Mutual identification occurs when not only the researcher identifies with the participant, but participants can identify with the researcher. This might be obtained through full self-disclosure and represents a deeper level of identification, one that may not always be reached during the data collection. Indeed, it may not always be appropriate to reach that level. For example, social workers Bombyk, Bricker-Jenkins and Wedenoja (1985) dispute the idea of essential self-disclosure, that is where a researcher must self-disclose during her interactions with her participants. Self-disclosure, as I noted earlier, is intended to create trust, identification and a more equal relationship, but it can have disadvantages. Wedenoja, who was a participant in the study conducted by Bombyk and Bricker-Jenkins (1985), notes:

She was giving me... personal information as a way of equalizing the relationship and revealing herself as I had been revealing myself, yet it seemed more out of her need to self-disclose rather than my need at that point to know about her. At that early stage of the interview, I felt like I first needed time to establish myself within the role of participant before moving towards more of an interactive sharing (Wedenoja 1985 as cited in Reinharz 1992, 33).

There is also the disadvantage or danger that our own experiences will bias the research process or results. Reinharz notes that:

Researchers who self-disclose are reformulating the researcher’s role in a way that maximizes engagement of the self but also increases the researcher’s vulnerability to criticism, both for what is revealed and for the very act of self-disclosure (1992, 34).

While Reinharz does not clarify to whom the researcher is vulnerable, I suggest that the vulnerability to criticism can arise from participants, as in the study cited above
(Bombyck, Bricker-Jenkins, Wedenoja 1985), as well as from other researchers and funders. These concerns had influenced my initial decision not to talk about myself. In the short time of the initial interview, I wanted to learn about each woman and not impose my experiences on her. As it happened, later on when we all knew one another better, I felt it was appropriate to talk about one of my experiences with violence and the police.

While being vulnerable to critics is one concern, another vulnerability can arise. Stanley and Wise argue that the feminist researcher has an active and central role and must make herself “vulnerable” (1983, 196). For them, this does not mean that the researcher records “her innermost sensations and feelings,” rather that the interaction between researcher and participants must be included through the personal (1983, 197). While the authors do not clarify this, I understand this to be about opening up during the research process and staying connected with it on an emotional, as well as an intellectual level. These reflections on the interaction between the emotional and the intellectual should be included in the research process to enhance our learning.

The identification with our participants has the value of enhanced learning, but it also carries the disadvantage of the pain that comes from identifying with people (Reinharz 1992, 234). The interaction of “feelings and facts” (Duelli Klein 1983, 95) is essential to truly understand women’s experiences, but there must also be an understanding of how being vulnerable can affect you and can destabilize you and your work. Many professionals end up retreating behind their cloak of professionalism because the strong emotions can impair their ability to advocate for and support their clients in our adversarial legal system. Colleagues have spoken to me of the emotional drain that working in certain areas, such as domestic violence, can have on one’s personal and
professional well-being. As Rand and Rand found in their study of lawyers and those who chose a caring approach, “This posture . . . exposes an empathetic practitioner to an array of client demands and misery which at time may become unbearable” (1988, 281). One poverty law theorist argues that because domestic violence requires “affective lawyering” (lawyering that requires emotional engagement and hence is resource intensive), this area of law is generally not part of poverty law practices (Margulies 1995).

In feminist participatory research, where leadership and the demands of time, commitment and energy are critical, it is important to understand what can happen when and if the vulnerabilities take over. Years later, I understand what has happened and what happens to me when I am overwhelmed with pain and feeling out of control as I have felt many times in my life.

I believe that trauma, such as the trauma of assault or abuse, impacts the learning process and the potential for productive learning. It can impact the learning adversely in that it is more difficult to focus and more difficult to retain information. It can also make one hesitant to participate or disclose. I was told this in various ways by different women in the interviews. I also have experienced that overwhelming sensation of being out of control and not being able to concentrate, focus, or learn. For me, one who has always loved learning and the formal or informal ways of learning, this had a devastating impact. For me, the pain has slowed me down and caused me to lose confidence in my abilities. I believe now that I made my decision not to disclose my own experiences with violence based upon a subconscious understanding of the risk of being drawn intimately into their pain and how I might react.
In sum, self-disclosure may be useful. Yet practice without flexibility or sensitivity to the responses of the participants does not reflect good feminist research. As always, feminist research must be responsive to the context and with self-disclosure, timing will be critical.

A number of questions remain for me. Would revealing my own experiences with violence have altered the level of trust during the interview, and so have prompted the women to disclose more of themselves? Would I have been seen differently by them — less of an outsider and more as one of them? Would this have affected the results? More importantly, how would it have affected the process? Would I have felt too “vulnerable” (Stanley and Wise 1983, 196)? Du Blois argues that “…it is harder when we question ourselves about our own honesty, responsibility and sanity in our work” (1983, 112-113). I have not questioned my honesty or responsibility or sanity. I have questioned how I, as a feminist researcher, allowed myself to connect and enter into my research that was in so many ways, intensely personal and passionate. Our doubts and the questions that are raised by our work as feminist researchers are natural and can only contribute to our own process of understanding our work. That moment of self-disclosure showed me how the boundaries between researcher and participants can be crossed and connections made. This has forced me to explore the powerful implications of connection.

Some Not So Final Thoughts

A month after the retreat, the women received two copies of their transcript and were given the opportunity to make changes and provide feedback. They also received photographs from the retreat and notes taken during the workshop. A follow-up
meeting/dinner with the women and their children took place in the fall of 1999. We talked about the retreat and workshop, looked (and laughed) at pictures, reviewed a project report and discussed ways to further facilitate their participation in the development of their ideas.

At this time, I also met with my committee members to provide them with an overview of the data collection. Using a Power Point presentation, I showed them pictures from the retreat and provided a summary of the emerging themes. This meeting afforded the opportunity to maintain contact with my committee and keep them involved in the research process. It also afforded them the opportunity to ask questions about the data collection and identify themes at this early stage of analysis that they saw as important. From my perspective, it was an extremely valuable meeting.

The objectives of the first phase of the project were to assess the legal information and education needs of the women and to determine possible ways in which to address these needs. In the second phase, the women themselves are becoming more involved in the project as we all work to develop their ideas. They are taking increasing amounts of ownership for the project. They call themselves the Derecho a Saber/Right to Know group and have called on project organizers to speed up the process. The level of participation and enthusiasm has not dropped off, but is in fact growing. I have received phone calls from women who did not participate in the first phase of the project, but who are interested and would like to get involved. As the project moves ahead, the challenges inherent in this component of feminist participatory research, the action that flows from the research, become increasingly apparent (Maguire 1987). The transfer of leadership from me to others has not yet occurred and will be critical if the project is going to
continue and have a sustainable impact. As well, the immense amount of time, energy, and other resources required will continue to create tensions.

As such, it is too early to write my final thoughts on the project as the second phase will undoubtedly impact the outcome. Maguire (1987) developed a feminist participatory research framework based on her participatory research project with a multicultural group of battered women in Gallup, New Mexico. This framework, as informed by my experiences and those of my participants, helped define and guide the research process and of course, the results. Yet this framework marks only the beginning for more guidance is needed on the role of the researcher. Much writing on feminist research (Mies 1983, Duelli Klein 1983, Du Blois 1983) explores this role of the researcher. The traditional model of the objective, neutral and disinterested researcher has little place in feminist research. Feminist participatory research must incorporate ways in which the role of the researcher, in both theoretical and practical terms, involves the negotiation of power on many levels. It is in this negotiation that self-disclosure becomes an important issue. For me the question remains: How much of one's own experiences become part of the dialogue between researcher and participants?

Self-disclosure is intended to foster trust, identification, and a more equal relationship, all critical in feminist participatory research. Self-disclosure cannot achieve these by itself. As I noted earlier, challenging the traditional hierarchy in the researcher/participant relationship requires sufficient resources (time, energy, money), as well as the commitment, experience, understanding and empathy of the researcher/s. Because feminist participatory research places such great demands on the researcher, this may be one methodology where the benefits of self-disclosure must be weighed carefully.
The researcher should have a full understanding of the implications of vulnerability for herself prior to commencing the research and this issue should be re-visited often throughout the process.

While I do believe that my consistency in not disclosing during the interviews is valuable, my lack of experience may have led me to make too rigid a decision regarding self-disclosure. The appropriate support, logistical and emotional from experienced researchers, at all phases of feminist participatory research, and indeed any feminist research, is essential. Had I asked for it, and had it been available, I might have come to different decisions. Perhaps not. Time, resources, and experience are all critical ingredients in the process and as each woman is unique with her own experiences, flexibility must be an inherent part of feminist participatory research. As I continue through the next phase, I feel enriched by the challenges that have passed and eager to embrace those that await.
Chapter 4
Defining Rights

In any feminist participatory research project, it is difficult and somewhat artificial to separate the findings from the process. The previous chapter described in some detail the process involved and findings from the workshop itself. This chapter will provide discussion and greater depth to the major themes that emerged during the interviews and the workshop. The following chapter will present further discussion on the women’s learning strategies and Chapter 6 will present concluding remarks.

The Women

The women who participated in the study were a diverse group and as such, reflect the diversity of the Spanish speaking population in Toronto and indeed of women who have experienced domestic abuse. The study did not attempt to be representative of the population. One of the reasons for this was that there are no reliable statistics on the prevalence of domestic abuse in immigrant communities in Toronto (McDonald 1999a). As well, limitations on confidentiality and the amount of time required by participants placed constraints on potential participants and rendered a statistically accurate representation difficult at best.

The women ranged in age from mid-twenties to mid-sixties. All had married at a young age (18-24 years). They came to Canada from a variety of countries in the Caribbean, Central and South America: Cuba, Mexico, Nicaragua, El Salvador, Guatemala, Peru, Venezuela, and Chile. Many of these countries have experienced civil
war, social unrest, and state oppression in the past several decades. The educational backgrounds of the women were diverse. Most had completed high school, although a couple had only completed grade six or grade eight in their home countries. Several had university degrees; one had a graduate degree. They were from working class, as well as middle and professional class backgrounds.

All the women, but one, had children which they had had at a young age. Two women, both in their forties, were taking care of grandchildren because their children, who had become parents at adolescence, needed the support. Children's Aid was or had been involved in a number of situations. One woman's grandchildren had been removed by Children's Aid.

Out of the twelve children who came to Hart House Farm, two were girls and ten were boys. They ranged in age from eleven years to 18 months. Most spoke English perfectly with the exception of two boys who had been in Canada less than two years and because of their young ages were not yet in school. The children would switch from English to Spanish easily, reserving their Spanish for their mothers and English amongst themselves or with me or with the farm superintendents.

All the women had worked prior to marriage and having children, most in cleaning or other low skilled jobs. Several spoke of having worked illegally in Canada until their employer requested a Social Insurance Number. At this point they quietly left the job. Some were working at the time of the interview again, in cleaning or other low skilled jobs. Two of the women were studying, one at a community college and one at Ryerson. Only two women received any child support and none of the women received spousal support. The majority of the women were in receipt of social assistance, but their
economic situations varied. Two of the women lived in new apartments that were subsidized. Additional income for many was generated in a number of ways: working for cash, working odd jobs, selling homemade goods, occasional child support or gifts from the ex-spouse, support from families abroad or in Canada. Some of this income, the child support in particular, was declared to social assistance authorities. I did not ask whether other sources were declared.

Tita in speaking about welfare gave a resigned sigh.

Welfare me ayuda. Paga la renta pero no es mucho y con tres ninos, me hace falta siempre. He usado bancos de comida.
(Welfare helps me. It pays the rent, but it's not much and with three children, I am always short. I've used food banks.)

Regina was very aware of the her situation as a single mother in receipt of social assistance.

When I started looking for an apartment, it was very discouraging.
They don't want you – welfare moms!

Regina was the only woman to use the term, “welfare moms/mothers” and specifically speak of her experiences of discrimination in seeking housing. Several of the women indicated that they did not want to be in receipt of social assistance, but they felt forced to apply for it when their spouses left and provided no support. It was their only option with young children, no affordable day care, and their chances for employment low due to their low English skills and lack of education and other training. These women had not worked outside the home since their marriage and/or birth of their children. A couple of the women talked about the cuts in their welfare cheques that occurred when the present Conservative government came to power in 1995.

During one of the workshop activities, in which we identified our differences and similarities, it was clear that almost all the women had used food banks at one time.
When the group discussed their responses to the activity, many expressed a sense of sadness about this use of the food banks, but they also said that they did not feel as ashamed that day as they usually did when they thought about it. This was because there were so many women who had used the food banks.

Several of the women were working to improve their English or develop skills in order that they might find work and no longer have to be dependent on social assistance. There were at least two, however, who seemed resigned to their situations, despite their lack of sufficient income, and they were not interested in improving their language skills or employment opportunities.

The women's experiences with immigrating to Canada and the English language also varied. The women's comfort level and fluency in English were not in any way related to the amount of time spent in Canada. Two had come as children with their parents years ago and felt more comfortable speaking in English than in Spanish. One woman had been a Canadian citizen since the mid-seventies, but still felt most comfortable speaking in Spanish. One woman, who was the most recent arrival, less than two years ago, was making great strides in learning English and wanted to practice it whenever she could, even completing the interview in English. Most women took classes when they first arrived. As Ela noted,

*Aprendí mucho. Me sirvió mucho para orientarme.*
*(I learned a lot. It helped a lot to orient me.)*

Other women who had lived in Toronto for more than a decade did not speak, understand or read English well. One of these women commented that it was now important for her to learn because she could not help her children with their schoolwork
anymore. This particular woman also asked me to explain a letter from the government she had received a few days earlier as soon as I arrived at her apartment.

*Esto fue mi gran error de no haber tomado ninguna clase de inglés. En Nueva York, no se necesita inglés porque trabajaba con gente extranjera entonces hablaba español todo el tiempo. No me importaba practicar. Pero cuando llegué aquí, me di cuenta de que necesitaba inglés. No pensé. Y ahora, me siento culpable por los niños. Su padre sabía inglés.*

(Not having taken any English classes was my big mistake. In New York, you didn't need English because you worked with foreigners and so you spoke Spanish all the time. It didn't matter to me to practise. But when I arrived here, I realized that I needed English. I didn't think. And now, I feel guilty for the children. Their father knew English.)

Or as Celia put it, when she arrived, her spouse gave her a choice between earning money and studying English.

*El me preguntó, que quieres hacer, quieres trabajar o estudiar? Y yo vi la necesidad por dinero entonces, trabajar, le dije.*

(He asked me, what do you want to do, do you want to work or study? And I saw the need for money so I said to him, work.)

There were several women who are now required to take English as a Second Language (ESL) classes as a condition of receiving social assistance. All the women recognized the importance of being able to function adequately in the English language.

*Me importa bastante el idioma. Es importante por comunicación, por trabajar, por vivir aquí. Hay que aprenderlo. Me siento mal sin fluencia en inglés. Me siento impotente.*

(The language is important to me. It's important for communicating, for working, for living here. You have to learn it. I feel badly without fluency in English. I feel impotent.)

*Entiendo un poco, hablo un poco, pero no puedo expresarme bien. Es muy importante para las personas que hablemos, que entendamos el inglés.*

(I understand a little, I speak a little, but I can't express myself well. It's very important for people to speak and understand English.)

For the women who were working, their English levels varied, but in general they did not feel comfortable speaking in English. They all said they could function and would take classes, but between childcare and working, they were often too tired. One woman expressed great enthusiasm for learning English:
Siempre he tomado clases de inglés, cuando tengo la oportunidad. Si trabajo por el día, tomo clases por la noche o vice versa.
(I have always taken English classes when I have the opportunity. If I work during the day, I take classes at night or vice versa.)

Many of the women arrived in Canada as visitors or without any legal immigration status. Some had travelled without visas by land, paying money to “coyotes” to transport them across the Rio Grande into the United States. They then travelled into Canada where they gained residency status through the Backlog program, which began in 1987 and lasted through the early nineties. Ela described her travels in a matter-of-fact way:

Viajé sola por tierra y usé un coyote para cruzar la frontera. Por viajar por México, no era un problema. Crucé por Tijuana para San Diego. No me costó mucho como US$200, como está acostumbrada la gente. No tuve problemas.
(I travelled on my own by land and I used a coyote to cross the border. Travelling through Mexico was not a problem. I crossed at Tijuana on my way to San Diego. It didn’t cost me much, like US$200, as people are used to. I didn’t have problems.)

Many women gained their permanent residency status through marriage, whether to a Canadian or another immigrant who already had resident status.

One woman came as a dancer with a company and worked in horrible conditions in a strip bar in another city. Her passport and money were taken away from her and it appeared to her that even the police were in on the racket.

Era la compañía que tramitaba todo. Vine con mi hermana. También nos dijeron que tenían que llevarnos a sacar permiso de la estación de la policia. Los mexicanos. tenemos un alto respecto para los

3 In 1987, Immigration Canada established a program to deal with the hundreds of thousands of cases that were backlogged in the system. At the same time, the Simpson Rodino Bill had been passed in the United States imposing stiff penalties for employers who employed undocumented workers. Rumours of an amnesty in Canada and the dangers of working in the US with the civil wars and unrest in Central American countries, prompted thousands of workers to seek entry to Canada. Under the Backlog Program, refugee claims were accepted if the claimant could prove there was a “credible basis” to their claim, as opposed to the more difficult test of having to prove persecution or fear of persecution under the United Nations definition of a refugee. As well, many in the program gained residency on “humanitarian and compassionate” grounds demonstrating that they had established themselves in Canada, were working, had learned English, raised a family, and were contributing to the community, etc.
There had been three cases of sponsorship breakdown, which had been resolved. The women were very vague about the details of these proceedings and were unable to describe the manner by which they gained their residency status. Three women had made refugee claims. Wendy made a refugee claim during the Backlog Program, on her own behalf, and not as a spouse of a refugee claimant.

She was accepted in the early nineties. Another woman had just been accepted as a refugee prior to our interview and was waiting for her permanent residency status. The third woman was waiting for her refugee hearing. She was the only participant who did not have security in her immigration status. While legal, her permission to remain in Canada was temporary until the outcome of the hearing.

As discussed in the previous chapter on methodology, the limitations on confidentiality that were required by the Ethics Review Committee likely had some bearing on the composition of the group of participants. In most cases, the staff of the Women’s Program selected the women. In our meetings, we had often discussed the insecurity and fear women feel when do not have legal immigration status and must talk.
to people in any kind of authority. I believe that the fact that the researcher could not guarantee them one hundred percent confidentiality was a deterrent to their participating. These women are also the women who are most vulnerable in abusive relationships. Their fear of deportation or immigration authorities in general acts as a deterrent to leave the relationship, report the abuse, or seek any kind of assistance, medical or otherwise (McDonald 1999b; MacLeod and Shin 1994; Anderson 1993; Martin and Mosher 1995).

The men manipulated the women’s vulnerable status as immigrants. Ptacek found in his study of why men batter that “... a pattern of intentional, goal-oriented violence is established” (1998, 192). All of the women who were new to the country reported threats of deportation. These threats were used to control the women. Regina remembered clearly that her spouse,

... threatened me to call [sic] immigration and not be my sponsor anymore. Because I didn’t care about that, he stopped doing that. I didn’t care. I wanted to go home. He was crazy. I believed him of course. I remember the guy in immigration said to him – anytime you want to break this [the sponsorship] just call. I was there. I heard it. So I knew it was true.

Esperanza, who arrived only two years ago, recalled that,

He told me that [if] I call somebody for help, I would be deported.

Celia who arrived more than a decade ago remembered,

El me decía que iba a mandarme de vuelta a Salvador. No entendía nada de inglés.
(He told me that he would send me back to El Salvador. I didn’t understand anything of English.)

For one woman, her spouse’s sponsorship helped her gain permanent residency in Canada. Yet it also quickly became another way to control her.

Mi esposo me ayudó, él se puso a mi “sponsor.” Pero en esto también me engañó porque me dijo que si yo le levantaba la voz y si le decía una mala palabra, o si yo lo razgaba un poco, o si yo abandonaba la casa sin su permiso, me iban a deportar.
(My husband helped me; he became my sponsor. But he also tricked me because he told me that if I raised my voice to him, and if I said a rude
word to him, or if I scratched him a little, or if I left the house without his permission, he would have me deported.)

Threats to take children away, out of the country, were also common. Women reported that these threats about the children were most powerful.

*Esta fue la primera vez que me golpeó. Y yo llamé a la policía. El me dijo que si tú llamas a la policía, yo te quito al niño y te deporto. Y pensaba que esto iba a ocurrir.*

(That was the first time that he hit me. I called the police. He told me that if you call the police, I will take the child away from you and have you deported. And I thought this would happen.)

He has threatened to take the kids away from the country.

Throughout the project, and most particularly during the workshop, the staff of the Women's Program spoke on behalf of women without legal immigration status. As such, some, but most likely not all, of their needs are reflected in the findings.

Out of the group, all but two of the women's relationships were with men who were originally from Latin American countries. Some of these men had lived in Canada for a period of time. The exceptions included a Canadian man whose parents were first-generation Portuguese immigrants and a Canadian man originally from Guyana. Many women commented on abuse against women in their home countries or by Latin American men.

*No sé si era por la mentalidad que es como se creían ellos... pero él era muy agresivo conmigo. No sé si piensa que golpear a la mujer es correcto. No sé. No sé.*

(I don't know if it's the mindset as that is how they are raised... but he was very aggressive with me. I don't know if he thinks beating women is correct. I don't know.)

Wendy discussed her relationship frankly.


(My marriage was really – well – he was from my country- there was a lot of abuse. I lived with much abuse, but I always wanted to keep the family together. I grew up without a father and I didn't want to give
Ana, after describing aggressive verbal and physical behaviour of her spouse, commented:

*Los hombres de mi país son así. (The men of my country are like that.)*

These women believed that their partners’ violent behaviour was related to their upbringing and attitudes in their home countries. While none of the women used the term, “machismo,” they seemed to be describing this aspect of Hispanic culture. Machismo, male dominance, is evident in both subtle and covert ways throughout Latin American communities and has helped a society tolerate or accept violence against women (Blea 1992, 127). This factor did not excuse the men’s behaviour, but may have helped the women to understand it and even accept it.

There were four women whose relationships had started in their home countries and continued in Canada. These relationships had been abusive in the home country and from the general descriptions of the abuse, they did not change markedly upon immigrating to Canada. Other factors, such as alcohol use and the lack of money and unemployment, did appear to play a role in exacerbating the abuse. These factors may be symptoms of the stress of dislocation and discrimination.

Statistics Canada (1998) has found that there are several risk factors for abusive relationships which include: unemployment, income, age, marital status, presence of emotional abuse, witnessing violence as a child and alcohol abuse. While the Latin American community is socially and economically diverse, women may have low education levels, poor jobs, marry young and have children at a young age (Blea 1992,
As noted, all of the women married, had children at a young age, and those who were working had low paid, low skilled employment.

The National Organization of Immigrant and Visible Minority Women of Canada (NOIVMW) (1993, 12-15, see Chapter 2, 25-26) presents a much more comprehensive list of factors that can lead to conditions for domestic abuse that takes into consideration the multiples oppressions that immigrant women face at the individual, family and societal levels. In all the relationships there were strongly defined sex roles and the men had all the decision making power. The women were in almost all cases economically dependent upon their spouses. Childcare was their sole responsibility. In sum, many factors on the individual, family, and societal level that are known to contribute to power imbalance in intimate relationships were present in these women’s lives.

**Staying in the Relationship**

Many of the women spoke about these factors and how they influenced them to stay in their abusive relationships. Esperanza described a feeling of hopelessness when she thought about leaving. She felt she had no options.

> Sometimes he would beat me so bad and I would start to run away, but then I would think, where am I going now? What am I going to do? I have no permission to take my sons out of the country. I have nowhere to go.

Ana reported that,

> He was so bad to me, but I had no other person. I had nobody. I didn’t believe in myself. how I believe now. I didn’t know that I can do things for myself. So I went back to him. I didn’t know any more in my life than him.
Cynthia described her isolation. She had no immediate access to intervention, outreach, and other culturally and linguistically appropriate support that she could trust. These factors are identified in the NOIVMW Report (1993, 12, see Chapter 2, 25-26).

\[ Y \text{ por siempre problemas en el matrimonio, pero realmente no tenía ayuda. Yo vivía sola sin familia y tenía algunas amigas pero uno se siente que no le gusta contar sus problemas que tiene en el matrimonio. (There were always problems in the marriage, but in reality, I had no help. I lived alone without family and had a few friends, but one feels that they don’t want you to tell them about your problems that you have in your marriage.)} \]

Latin American women are raised to admire family relationships, marriage, and children and prioritize their communal needs (Blea 1992). Wendy spoke specifically about having grown up without a father and she did not want her children to grow up without a father, despite the abuse. So she stayed. Or rather she left, and came back, and left, and came back and left.

Many of the women mentioned their Catholic faith as being important to them and having influenced them to remain in the relationship.

\[ \text{Una pena para mí, yo me casé en la iglesia. Yo soy católica y mi religión es muy importante. Pensaba que iba a mejorar, pero no. Pensaba que tener el niño, cambiaría. Mentira. No cambió. Tomaba y los problemas seguían. Era muy agresivo conmigo. (It was painful for me, I was married in the church. I am Catholic and my religion is very important. I thought that it [the relationship] would improve, but no. I thought that once I had the child he would change. Lie. He didn't change. He drank and the problems continued. He was very aggressive with me.)} \]

Celeste mentioned “Spanish culture” as one pressure on her to remain in a marriage.

\[ \text{Spanish culture is very, you have to stay in a marriage no matter what, and I’m Catholic so that’s another pressure on top of it all.} \]

Margarita referred to Catholicism as a tradition.

\[ \text{We have this tradition, this religion, like I’m Catholic right, so that you get married and then you have children. And you stay married.} \]
Gabriela spoke about the influential role that the priest of their church had played in reconciling the relationship. It was her spouse who sought out the priest when he was first released from jail.

Se quedó en la carcel una semana y después se fue a la iglesia donde nos casamos. Y él habló con el padre y luego el padre me llamó. Me dijo que quería hablar conmigo. Entonces el padre y yo hablamos en la iglesia y el padre me dijo que el matrimonio es sagrado. En la corte se pusieron condiciones y él no podía acercarse a mí o a -----. Como habló con el padre, yo volví a creer que iba a cambiar y aunque no tuviera el derecho de acercarse de mí, yo le dejé entrar. No dije nada a nadie que estaba viviendo conmigo de nuevo.

(He stayed in jail one week and after that he went to the church where we were married. And he talked to the priest and then the priest called me. He said he wanted to talk to me. So the priest and I talked in the church and the priest told me that marriage is sacred. In court, they imposed conditions and he couldn’t come near me or [the child]. As he spoke to the priest, I began to believe again that he would change and although he had no right to come near me, I let him in. I didn’t tell anyone that he was living with me again.)

As will be discussed in the section on information and seeking assistance, many women also stayed in their relationships because of factors operating at the level of the system, meaning the laws, policies, procedures, institutions and players in Canada and other countries. What is clear from the women’s descriptions of their backgrounds is that there exist a number of the documented factors (Statistics Canada 1998, NOIVMW 1993) that contribute to the fostering of unequal power in the family. These factors are complex and not any one can explain the prevalence of violence against women. At many levels, women in our society are subordinated. These women were vulnerable because of their lack of economic independence, their lack of immigration status and English skills, and their own belief system about the role of women and the sanctity of marriage. At a societal level, these vulnerabilities can be reinforced to perpetuate the power imbalance in intimate relationships.
On Being Immigrant Women

The views and perspectives of the discriminated woman are critical precisely because society has judged her interpretation of reality to be problematic and reactionary (Essed 1991, 272-274). This interpretation may become even more problematic when the woman is vulnerable because of experiences with abuse, lack of security with her immigration status, lack of income, etc. Essed (1991) argues that the experiences of everyday racism are crucial to account for the complex nature of the race and gender discrimination.

While many of the women talked about differences between Canada and their home countries, few described experiences that could be perceived to be racist and discriminatory. As noted earlier, Regina described trying to find an apartment as a "welfare mom." Only Maria, who was older and who travelled back to her home country with frequency, talked openly about discrimination on the basis of race.

_Si, hay discriminación en este país. Y... aunque, no lo exteriorizamos, llevamos las sonrisas, porque es mucho el orgullo que nosotros estimos por nuestra raza._
_(Yes, there is discrimination in this country. And... although we don't show it, we wear smiles, because of the great pride that we hold for our race._)

Maria also complained about the immigration system that denied newcomers (in the early nineties) the right to work upon arrival in the country.

_No se da la oportunidad de trabajar desde que ingresemos al país. Somos un pueblo acostumbrado a trabajar desde la infancia._
_(We are not given the opportunity to work from the time we enter the country. We are a people accustomed to work from our childhood._)

The interviews did not reveal significant experiences of everyday racism. This could be for a number of reasons. The women themselves may not perceive the treatment they receive from other members of society as racist and discriminatory. They may be
accustomed to such treatment, even in their own countries, and not question it. As well, they may not have wanted to express these experiences to me during the interviews as I am a white woman from the dominant class in society. During one workshop activity, the women found great strength in identifying themselves as having accents and being immigrants. We talked about how everyone has an accent and it depends upon the perspective of the dominant group in society. As such, the lack of overt descriptions of racist experiences in the data does not signify that the women have not had any or many such experiences. Roy (1995) suggests that Latin American women must overcome sexist and racist attitudes, both within their own cultures and throughout the United States.

The women commented on differences in services and legal protection offered for women who have experienced abuse between Canada and their home countries. Ana is well aware that abuse against women also exists in Canada.

*En los países de nosotros, bueno aquí hay abuso que se ve, pero en los países de nosotros peor es el abuso porque no tiene donde que recurrir allá. Es la verdad.*

(In our countries, well, there is abuse here that you see, but in our countries, the abuse is worse because there is no where to turn to. It’s the truth.)

*Siempre sabía desde que llegué aquí a Canadá que las mujeres tienen derechos. Y no porque soy inmigrante, no me van a ayudar... pero porque soy tonta.*

(I always knew since I arrived here in Canada that women have rights. And it’s not because I’m an immigrant that they won’t help me, but because I’m stupid.)

The woman below used very similar words:

*Me golpeaba – y esto me molestaba porque siempre sabía desde que llegué aquí a Canadá que las mujeres tienen derechos.*

(He used to hit me - and this bothered me because I have always known since I arrived in Canada that women have rights.)

This woman was referring to her decision to remain in the relationship despite the abuse.

She knew there was assistance for her and when she did leave, she received that help.
Esperanza talked about feeling safer in Canada than she had at any other point in her life.

*Canada has a good system that will help protect me and my children.*
*Not like in my country or in Peru. We don’t have many rights.*

Women did not believe that as immigrant women they would not be entitled to the same rights and services as Canadian-born women. They saw Canada very much as a place where rights for women do exist and more importantly, can be enforced. For many, although not all, they knew that there were services to help them. While not all had positive experiences with services, legal and otherwise, none attributed their negative experiences to their being immigrant women.

Again, there may be reasons for this. Most of the women were clients or former clients of the Women’s Program which meant that they had received information, support and other assistance in their own language and from a perspective that respected their belief system. Again, they may not have wished to criticize the system in front of me, the interviewer, as a member of the dominant class. They also may not be conscious of the discrimination and racism that exists in society. As a group, they were able to find strength in their differences.

Maria was the only woman to name racial discrimination. She was economically independent and as noted, travelled between her home country and Canada frequently. Perhaps those factors afforded her a different perspective, a bit of distance and more independence from the Canadian system. Combined with her age and wisdom, she brought a great deal of insight and warmth to her comments.
Experiences of Abuse

This study has used a broad definition of abuse:

Wife battering is the loss of dignity, control and safety as well as the feeling of powerlessness and entrapment experienced by women who are the direct victims of ongoing or repeated physical, psychological, economic, sexual and/or verbal violence or who are subjected to persistent threats. . . (MacLeod 1987, 16, emphasis in original)

The focus for the study was on abuse by an intimate partner and the abuse that the women experienced ranged considerably.

The one woman who has never been married experienced stalking and harassment by a partner shortly after her arrival in Toronto. She spoke about her heightened level of sensitivity to everything during this period. Several of the women were in relationships that were verbally, economically, and psychologically abusive, but there was little direct physical violence. As noted, alcohol often played a role and the women attributed the abuse to the alcohol.

(He began to drink once a week. He would say rude words, bad things, only when he was drinking. He’s a good person. He began to be very aggressive, very rebellious. I went along tolerating it.)

In the following excerpt, Margarita described the violence.

...he came home around 12 or so. Midnight. He was drunk. I was upset. I had been keeping this up for so long. And I said, you know what, this is it. So anyways that night he came and I shouted at him and he shouted back. And then I said, what’s wrong with you, you always come home drunk, you got no responsibility. And so on... So this one time, he like grabbed me and threw me against the bed. And at that point, he was starting to get violent. So he held me tight and I was trying to struggle up but I couldn’t cause he was like on top of me.

After describing the arrival of the police, where Margarita’s partner hits one of the officers during arrest and is then taken away, she comments,
So like I know he’s a bit violent, but it’s not like say, uh, physically abusive, like punching me and stuff. He’s like this when he’s drunk.

Threats, such as those described above, about deportation or taking away the children were common. Celeste told me that,

He often threatened things and told me I should be careful about getting him into any trouble. He said this again before he left so that’s another reason I never really pursued anything because I was scared.

Natalia commented,

Muchas muchas amenazas, que si tomaba vino, algo podría pasar y no sería responsable...

(Many many threats, that if he were drinking, something could happen and he would not be responsible...)

Era una película en donde el esposo mata a su esposa, pero era muy estúpido porque no cuidaba todos los detalles y ellos lo descubrieron.

(There was a movie where the husband kills his wife, but he was very stupid because he didn’t take care of all the details and they discovered him. He would tell me that he was not that stupid.)

Several women described having their documents taken away from them.

Me empecé a dar cuenta de que él estaba controlándome. Todos mis papeles que tenía en un lado, ya no estaban, nada estaba.

(I began to realize that he was controlling me. All my papers which I had in one place, were no longer there, nothing was.)

Natalia used the word “control” here. It was evident that Natalia is an extremely intelligent individual. She talked about how she slowly began to understand the control and power dynamics that were taking over the relationship.

Esperanza had planned to travel to England to stay with a relative. She told me that when she stopped over in Toronto so the children could see their father,

He took my passport from my purse so I couldn’t travel.

Esperanza was then locked up in an apartment and beaten up repeatedly.

Most of the women experienced some form of economic abuse:
He lied to me about so much. He controlled all the money and never would give me enough for the food.

Tita talked about being left daily without money:

Me dejó sin plata para comida, nada.
(He left me without money for food, nothing.)

Celeste echoed many of the women when she talked about not having any money:

... he never told me where he was working or what he was doing... I had no money at all, even when he was around, so when he took off, I had to go on welfare...

Along with economic abuse, Esperanza and several other women described being “locked up.”

El empezó a hostigarme. Todos los días llegaba a la misma hora, cargando toda la comida. Pero me mantenía sin dinero. Yo no sabía ni de cinco dólares canadienses.
(He started to keep me a hostage. Everyday he would arrive at the same time, bringing all the food. But he never gave me any money. I didn’t even know what five Canadian dollars looked like.)

I decided to get separated because he was a total stranger. He went out very early in the morning and he used to lock the door. And when he came back, I would ask him where he had been and he would never say anything to me. One day I found so much jewellry in a bag... he told me he was working in construction. When I asked him about something, he used to beat me.

There were other examples of power and control:

He started cooking and decided I had to be like an assistant to him. He told me to throw the garbage out. I said, no you do it. And he blew it. He said, you don’t wanna and he blew it. He threw garbage all over the house. I was so scared that day and I just sit [curls up in a crouching position to demonstrate] and I don’t say anything and I don’t do anything.

Partners who spoke English, where the women did not, also had a lot of power.

... él tenía un vocabulario y las palabras. Usaba las palabras y pagaba los gastos. Tenía mucho poder así.
(... he had a vocabulary and the words. He used the words and paid the bills. He had a lot of power that way.)

One woman after describing the physical violence in her relationship, said that what was also so painful was that:
Se reía de mí.
(He laughed at me.)

Women used the word "control" in their descriptions of their relationships:

*Durante todo mi matrimonio, él quería solamente empujarme abajo... cuando me refiero a abajo, quiero decir que desde siempre, quería controlarme...*
(Throughout my marriage, he only wanted to push me down... when I refer to down, I mean to say that he has always wanted to control me...)

Several of the women spoke about feeling "controlled" by their in-laws.

*... so when I came here, even when I married and everything we lived there with them. It was very horrible. It was crowded. They interfered in everything we did. When I told them I was pregnant, they started to ignore me.*

*Allí se metió mucho la familia de él. Se portaba mal, me trataba mal. Y no me daba casi nada. Mi suegra controlaba todo.*
(His family got involved a lot. He behaved badly, treated me badly. And didn't give me hardly anything. My mother-in-law controlled everything.)

In three situations, the mother-in-law was extremely controlling in a variety of ways: how money was spent, what food was prepared and when, and one woman even supported her son when he locked up his wife for a day. A traditional theoretical construct of violence against women has been built on one concept of power – patriarchy. This construct has been criticized, as has feminism in general (Schneider 1992), because while we know violence does affect all women, it occurs within a context of race, class and other social characteristics (Crenshaw 1991, 1245-46). Schneider (1992) reminds us that we must examine the particularities of each woman's experiences to understand the complex ways in which power imbalances are created and maintained.

In these situations, the power in the family was multilayered to encompass not only spouse (male) over wife. The women easily identified what was occurring. During the interviews, it seemed easier for them to name the mother-in-law (another woman) as one controller who dominated them, than their spouses. The realization that their spouses
were also controlling them often came later on, or in some cases was downplayed. This could be attributed to loyalty the women feel to the men they have loved. Another reason could be the different dynamics that are acceptable in an intimate relationship. While it might be acceptable for a man to discipline his wife, the women might challenge whether a mother-in-law can do likewise. It could be simply that it was the mother-in-law, a woman, who in the end, has significantly less power in the home and in society than a man and the women all intuitively know this. What is clear is that a simple one-dimensional understanding of power, as male over female, is not adequate to explain the complexities inherent in abusive domestic relationships. This study has focused on the abuse of women by their intimate partners. The dynamics of power and control exercised by the mothers-in-law illustrate another layer in the power relations.

Along with economic, verbal, and psychological abuse, there were several women who experienced physical and sexual violence. During the interviews, some of the women were very open with me, describing details of the tragic incidents of violence. Some were more vague. What was clear throughout was that the violence had had a profound effect on them and on their children, who were in many cases witnesses.

*Cada vez era más violento. Me decía, yo te destruyo. Yo lloraba.*
(Each time he was more violent. He said to me, I will destroy you. I would cry.)

*Estaba en el baño con el niño y no contesté la segunda llamada telefónica, y llegó y me golpeó por no contestar porque pensaba que yo estaba coqueteando con alguien.*
(I was in the bathroom with the child and I didn't answer the second telephone call, and he arrived and he hit me for not answering because he thought I was flirting with someone.)

Esperanza talked about miscarrying after being beaten. Years later, when she was pregnant again, the beating continued.
When I met my husband he was a nice person and then he started to beat me when I left my home. And that’s why I had a miscarriage... He hit me very bad when I was 4 or 5 months pregnant.

Another woman described how the violence became sexual.

El empezó a rentar películas pornográficas. No me dejaba poner ropa. Solo podía ponerme un abrigo y me acariciaba. Después de golpearme, hizo el sexo conmigo.
(He began to rent pornographic movies. He wouldn’t let me put clothes on. I was only allowed to wear a coat and he would caress me. After beating me, he would have sex with me.)

Alcohol played a role in the physical violence.

Se emborrachó mucho y luego me golpeó.
(He got drunk a lot and then hit me.)

Empezó a tomar y empezó a gritarme. Fue muy agresivo verbalmente. Empezó a tirar cosas en la cocina. Me golpeaba...
(He started to drink and started to shout at me. He was very aggressive verbally. He started to throw things in the kitchen. He was hitting me...)

Gabriela described how her spouse would moderate his physical blows to ensure that no signs were visible.

Estaba tomando y me golpeó. No me golpeó muy fuerte, porque sabía que si me golpeaba duro y dejaba morados, habría problemas para él.
(He was drinking and he hit me. He didn’t hit me very hard because he knew that if he hit me hard and left bruises, there would be problems for him.)

Ana talked about her first relationship.

Había tenido problemas con el papá de mi hijo. Me golpeaba y todos esos problemas de la mujer.
(I had had problems with the father of my son. He beat me and all those problems women have.)

This woman, after her second abusive relationship, has no desire to be in an intimate relationship at the moment.

During the interviews, the women described all forms and degrees of abuse. Their partners controlled them in a number of different ways that are consistent with previous research on abuse against women. The women spoke of the cycles of violence, cada ocho
días (every week), or cuando tomaba (when he drank). They spoke about the times when everything would be okay and how they changed their behaviour so as not to provoke their spouses.

For some of the women, the abuse occurred both in their home countries and in Canada. As immigrant women, however, with little understanding of sponsorship or other immigration procedures, they were particularly vulnerable to the threats made of deportation and kidnapping of the children. The men seemed to be aware of and specifically played upon their vulnerabilities: their lack of permanent immigration status, their lack of English, their lack of familiarity with the city, their lack of family and friends, and their lack of economic independence.

In describing women as lacking English or lacking support, I have focused on their deficits. All too often the woman who has experienced abuse is reduced to a victim. Generalizations, such as “learned helplessness” are applied which have negative connotations (Walker 1988). The women that participated in the project were and remain strong women. Many had left their home countries, families, and friends at a young age and come to Canada with hopes and fears. Many endured many different forms of abuse for months and years. All reached out for help and sought to do the best for their children and for themselves. All have survived to talk about it and all want to make changes and help other women like themselves.

There was one woman who was very resigned to her situation, and expressed to me during the interview that she felt life was unfair and she could not cope well. She did not want to learn English or work. This woman, however, in the group setting, became
quite eager to learn and understand the laws, not just for her own situation, but because there are so many other women who need to know.

When their strength and resistance are not recognized and affirmed, the myth of women who have experienced abuse as passive subjects is reinforced in society and within the women themselves. Each woman who participated in this study demonstrated strength and resistance. The women do not describe themselves with such words and as such, these aspects are absent from these pages. Their strength and resistance should not be absent, however, from a reading of this text.

Reaching Out

Women reached out for assistance at different points in their relationships for different reasons. Often, when children became involved or witnessed violence, a phone call to the police was made immediately. This is consistent with the findings in the *Violence Against Women Survey* (1993) which revealed that women were three times as likely to report incidents to the police if their children had been witnesses.

*El niño estaba durmiendo y me decía que iba a llevar al niño. El se fue a la cuna y el niño se despertó. El le dio una nalgada. en su piernita, un golpe. El niño empezó a llorar. Esto me hizo furiosa. El me rompió la blusa y yo llamé inmediatamente a la policía.*

(The child was sleeping and he told me he was going to take the child. He went to the crib and the child woke up. He gave him a slap, on his little leg, a hit. The child began to cry. This made me furious. He ripped my blouse and I called the police immediately.)

*I was bleeding on the floor. My sons saw everything. I couldn't speak any English. He went out and I tried to call the police. I didn't care anymore because I was really bad. I didn't know, so instead of 911, I called 119.*

Wendy had left her spouse and gone to shelters three times. She told me that,

*Regresé y viví con él por un año más. Salí porque me pegó y mi hijo le llamó a la policía.*
(I returned and lived with him for one more year. I left because he hit me and my son called the police.)

During the workshop, we discussed what factors helped women first reach out for assistance. Women talked about having friends, family or a good relationship with a counsellor, social worker, doctor or other caring outsider as being very important.

_I knew there was never going to be a perfect time to leave. I had already prepared with my friend who knew everything. She knew a woman at a good shelter so I knew where to go and what to expect. I took Mitchell and a bag of clothes._

For some women, shame about the abuse and the breakdown of their marriage kept them from trying to find assistance. Guilt and shame are very powerful controlling mechanisms and have been documented as such (NOIVMW 1993, 12).

_I was too embarrassed to talk to anyone about it._

Wendy, when she sought assistance, said that she downplayed the abuse in the relationship.

_Mentia mucho en esos dias._
_(I lied a lot in those days.)_

Celeste talked about how her parents refuse to support her, financially or emotionally because of the stigma of divorce. She came in contact with the Centre for Spanish Speaking Peoples by coincidence.

_My parents won’t help out at all – because I’m separated, divorced. So I was walking by the Centre one day and saw they were giving summer camp for kids. I want them to learn Spanish._

For at least one woman, being a member of the Spanish speaking community acted as a deterrent from accessing ethno-specific services such as those offered at the Women’s Program at the Centre for Spanish Speaking Peoples.

_My dad is sort of a Spanish figure... I didn’t want to go in there and say any of my stuff cause they might know him and it might embarrass the_
family and they might get mad at me. It’s a small community you know, and people talk.

On the other hand, many women found assistance from the Spanish speaking community.

My first days after he left were hard because I had no money, no English, nothing. But the superintendent was from Uruguay and he spoke Spanish and I asked him, what am I going to do? Then I met another person in the street who was Peruvian. He rented me a small room for $300 a month.

Trying to find out information proved to be frustrating for many women.

They gave me someone to call about legal stuff. She told me to call legal services, so I took down the numbers of some Legal Aid lawyers and I tried calling some of them. For half an hour one day, I wasn’t working at that time. But after that I got some work and that was my main priority.

Women often mentioned the lack of information as a barrier to seeking assistance.

Encuentro que hay otras mujeres, creo muchas mujeres que primeramente no se deciden a tomar una determinación y es por falta de saber lo que tiene que hacer, por ignorancia.
(Ifind that there are other women. I believe many women who in the first place don’t decide to take action and this is because they don’t know what they have to do, for ignorance.)

Once connected with the police, a shelter, or some social service provider (the Centre for Spanish Speaking Peoples, Children’s Aid, a social worker at a hospital), the women seemed to receive assistance for many of their needs, at least the non-legal needs.

En la estación de la policia, le llamaron a alguien de Children’s Aid, quien llamó al Centro para que yo entendiera más y tuviera más información. Entonces nos reunimos, Viviana y yo, y nos platicamos. Me ayudó mucho la atención. Me siento bien. Me siento protegida, no me siento sola.
(In the police station, they called someone from Children’s Aid who called the Centre so that I would understand more and have more information. Then we met, V--- and I, and we talked. The attention helped me a great deal. I feel good. I feel protected, I don’t feel alone.)

Yo fui a un centro hispano allá en Monreal. Una salvadoreña, era psicóloga, muy buena persona. Siempre toda mi vida con mis problemas, he recibido ayuda de personas muy buenas.
(I went to a hispanic centre in Montreal. A Salvadoran, she was a psychologist, a very good person. All my life with my problems, I have received help from very good people.)
Public education campaigns on violence against women certainly assisted one woman.

Wendy spoke of one negative experience when she went to seek help. She later talked about how difficult it was to get over that negative experience to reach out and ask for help again.

Entonces me fui al Centro para Gente de Habla Hispana. Pero había tenido una mala experiencia en el otro centro y yo tenía este temor...llegué muy pesada. He tenido experiencias en que nadie puede ayudarme. Entonces, yo le dije primero – en que me va a ayudar. Porque si no me va a ayudar, me voy ahora.
(So I went to the Centre for Spanish Speaking Peoples. But I had had a bad experience in the other centre and I was scared. I arrived very depressed. I have had experiencias where no one can help me. So I said to her first aff – how can you help me. Because if you aren’t going to help me, I’m going now.)

Wendy acknowledged that the shelters did help her considerably with a number of issues.

He conocido tres refugios para mujeres. En el último, me ayudó bastante – con welfare, con Legal Aid.
(I have known three shelters for women. In the end, I was helped a lot – with welfare, with Legal Aid.)

These experiences indicate that the women received assistance from a number of places and people, but friends and other trusted intermediaries played very important roles in helping them understand their options and make decisions. When women sought help (legal or otherwise) and had negative experiences, they were likely to not continue the process and not make any changes to their situations.

From the interview data, it was evident that these intermediaries are very important. Consequently, during one of the first activities at the workshop, we explored what barriers exist for the women in accessing the legal system. The women identified the people who helped them make a decision to approach the legal system. They included: a school principal, the Centre for Spanish Speaking Peoples, friends, a social worker, a doctor, and no one. Few women went directly to the legal system (ie. a lawyer, or Legal Aid, the courts), although several did call the police on their own. Most had the assistance and support of an intermediary. This person might or might not speak Spanish or be a woman, but all seemed to play a supportive and informative role. This is consistent with other studies whereby women who are disadvantaged (by language, by trauma, income, education, etc.) will use intermediaries to access legal services (MacLeod and Shin 1994; McDonald 1999b).
During this workshop activity, the women identified a number of conditions that Spanish speaking women who have experienced abuse would need in order to access the legal system: information (knowing where to go, what to do, and what your options and rights are), understanding from service providers (of the issues facing immigrant women who have experienced abuse), translation services, support (emotional and moral, direct and indirect), and their own understanding of domestic abuse and its impact.

Very few of these conditions are part of the traditional model of legal services. The Specialized Legal Services of the Barbra Schlifer Commemorative Clinic is one of the few models in Ontario where these conditions could be met. Martin and Mosher (1995) describe the need for advocates that can explain to women what will happen when they call the police and involve the criminal justice system. There are services in Toronto that when co-ordinated can provide some of the conditions the women request. In Natalia’s case,

_Había una señora de la oficina de Victim algo, no recuerdo. Ella me dio el número del Centro y fue Ruth que contestó, y en media hora, ella estaba allí._

(There was a woman from the office of Victim something, I don’t remember. She gave me the number for the Centre and it was Ruth who answered and in half an hour, she was there.)

When the police arrive at a woman’s home, they are supposed to call a Victim Services counsellor who can arrive on-site and assist the woman with information, translation, and support, both emotional and logistical. The counsellor will refer the woman to an appropriate agency and take her and her children to a shelter for long term assistance, as well as to the Victim Witness Assistance Program. Unfortunately, with limited resources and a constant demand for services, many women may fall through the cracks.

It is important to note that the majority of the participants in the study were clients or former clients of the Women’s Program. These women had received assistance and yet
many experienced the frustrations of not knowing or understanding the law or having to attend court unrepresented and having many questions unanswered.

Experiences with the Legal System

During the interviews and the workshop, women were asked to talk about their experiences with the legal system. Their recollections varied considerably, often due to the amount of time that had passed since their interactions with the various players in the system. There were other factors that affected their involvement and recollections: their level of competency in English at the time of proceedings, their understanding of the process, their own involvement (versus just the lawyer) in the process, and their emotional state at the time of the events. One woman who gave a very detailed account of her experiences with some family law issues had undertaken all the proceedings on her own. While she did not always use the legal vocabulary or understand everything that happened, she was truly an active participant in the process. This level of participation was rare. In this section, the women describe their experiences with Legal Aid, with lawyers, with child support, and on understanding the law.

Experiences with Legal Aid

For many of the women, the Legal Aid office was their first encounter with the legal system. All of the women, but one could not afford to retain a lawyer without the assistance of Legal Aid. Again their experiences with Legal Aid varied considerably. Celeste explained that not knowing there was Legal Aid prevented her from taking legal action.
I didn’t really know how to do it or where to go. I just knew you had to pay for it [legal services] and I didn’t have any money to do that so I didn’t follow it [the legal system]. If I knew there was Legal Aid, I think I would have gone earlier and done something about it [separation and support].

Women did not talk about reasons why they might not qualify for Legal Aid. They seemed to accept the rules, whatever they were. You got a certificate or you did not.

Regina described one experience with Legal Aid.

I went to Legal Aid and that woman treated me so horrible. She was just a clerical person and she acted like she had all the knowledge there. She said you cannot take your child to Venezuela until he’s 18, no way. She also said you don’t need a lawyer to do that.

Although the woman was "just a clerical person," she effectively barred Regina from accessing the Legal Aid system. Regina’s first experience with Legal Aid was different.

I knew something about Legal Aid from the accident my husband had. I knew where the office was so when I decided to leave, I went there on my own. I didn’t have any problems that time. I just had to fill in papers.

This woman, who had strong English skills, commented on how little information she was able to get from the Legal Aid office. Her comment highlights the important role that friends play in learning.

My friends told me more than Legal Aid ever did.

Wendy described being denied a certificate for a child support matter.

Yo fui a aplicar a Legal Aid para un certificado y no me lo dieron. El dice que hay un overpayment de support. Su abogada es novia – de mi ex-marido. Era una situación muy dura para mí. No es solamente la cuestión de dinero, de overpayment, sino los sentimientos.
(I went to Legal Aid to apply for a certificate and they didn’t give me one. He says there is a support overpayment. His lawyer is his girlfriend – my ex-husband’s. It was a very hard situation for me. Not only the question of money, but the feelings.)

This woman described how she found a lawyer.

Someone at the welfare office told me about Legal Aid. So I just chose the first name on the list. I was too embarrassed to look around and I wanted to get it over with.
Tita talked about going to Legal Aid.

_El Centro de Habla Hispana me dijo que vaya allá para encontrar un abogado. Una vez me fuí a Legal Aid y me dieron un formulario para llenar. Pero no lo dejé porque como ya había hablado con este hombre que me dijo que no era necesario._

(The Centre of Spanish Speaking told me to go there to find a lawyer. I went to Legal Aid once and they gave me a form to fill out. But I didn’t leave it because I had already talked to this man who told me that it wasn’t necessary.)

When I asked her to clarify who “this man” was, she told me it was a “friend.” Her comment highlights again the influential role informal learning plays. In a recent study on the legal information needs of low-income women in Ontario regarding the Child Support Guidelines (McDonald 1999b), many lawyers talked about the misinformation that many women had, particularly about shared custody. While friends can provide valuable information in a timely, trustworthy manner, there is always a danger that that information is out-of-date, incomplete, or inaccurate.

Ela describes her attempts to start an application for the custody of her granddaughter.

_Cuando yo recibí la bebé, tenía unemployment, y yo pensé que podía pagar a un abogado. Entonces me fuí a otro señor, pero yo no tenía dinero suficiente porque tenía que pagar al principio como $500. Entonces, me fuí a Legal Aid para ver si ellos me podían ayudar. Y en Legal Aid, ellos me dieron una hoja con una lista de clínicas, porque me dijeron que no ayudaba para cosas familiares y como el Centro me queda más cerca, me fui allí._

(When I received the baby, I was on unemployment, and I thought that I could pay a lawyer. So I went to this man, but I didn’t have enough money because you have to pay like $500 at the start. So I went to Legal Aid to see if they could help me. And at Legal Aid, they gave me a sheet with a list of clinics, because they told me that they don’t help family things and as the Centre was the closest, I went there.)

Ela, who had been denied a Legal Aid certificate when she went on her own to apply, was successful through the efforts of a counsellor and the lawyer.

_Yo hablé con Maria Rosa y ese mismo día ella habló con la abogada y la abogada aplicó a Legal Aid y ellos me dieron un certificado por dos horas me parece. Y la abogada empezó la aplicación. Nunca había hecho estas cosas. Fue la primera vez._
(I spoke to Maria Rosa and that same day she spoke with the lawyer and the lawyer applied to Legal Aid and they gave me a certificate, for 2 hours, it seems to me. And the lawyer started the application. I had never done these things. It was the first time.)

The above comments illustrate the varied experiences, both positive and negative, that the women had with Legal Aid. During the workshop, many of the women wanted to learn more about Legal Aid and to understand what to them had seemed very arbitrary denial of coverage. As one counsellor commented, “We need to understand why the system does not work for us.” Importantly, they also wanted to understand what they could do when the system did not work. They needed to know what options they had, if any, when they were denied coverage.

From 1995 onwards, the Ontario Legal Aid Plan reduced coverage in a number of area. Many of these women were denied a certificate because their issues, child support in particular, were not covered. As the Ontario Legal Aid Plan’s 1998 Annual Report noted, “[t]he human cost of this decline in legal aid certificates has been staggering” (1998, 3). The Report further noted:

People are going unrepresented in both criminal and family matters; in family law, they are now unrepresented as well in the preparation of the often complicated documents that must be filed with the court to get procedures started. These unrepresented people in family law are predominantly women, and many of them face form spouses who are themselves represented (1998, 4, emphasis added).

Today there has been some improvement in the extent of coverage, but women who are in receipt of social assistance will still not receive Legal Aid to seek child support. Legal Aid, however, represents only one aspect of the legal system. Even with a certificate, finding a lawyer can be difficult.
Experiences with Lawyers

In Chapter 2 (50-57), I described a number of the subtle techniques of power and control that are used in lawyering: the use of knowledge and language, normalizing judgement and dependent individualization, as well as the professional hegemony inherent in the traditional legal system. Many of these techniques were evident in the women’s interactions with lawyers.

Not all the women interviewed had retained a lawyer. For those that had, I asked them specifically how they found a lawyer. Wendy described the frustration of finding a lawyer even with a referral from the shelter.

El shelter me recomendó a una abogada, pero ella no tomó el caso. Yo le mandé toda la información de mi caso. Tuve una appointment con ella, pero llegó y no estaba. Con Ruth, cambiamos el abogado. Con este abogado, me dieron custody and support para los niños y también me dieron una “restriction [sic] order”.

(The shelter recommended a lawyer to me, but she didn’t take the case. I sent her all the information from my case. I had an appointment with her, but when I arrived she was not there. With Ruth, we changed the lawyer. With this lawyer, they gave me custody and support for the children and as well, they gave me a restraining order.)

Most of the women went to court unrepresented at some point during proceedings. Their experiences varied considerably. All felt disadvantaged without legal representation. Wendy tried to describe meeting her ex-spouse in court. During the interview, she could not find the words to describe the “pressure” that she felt in his presence at the courthouse. And she questioned whether I could understand this “pressure.”

Para child support, tenía que ir a la corte y para esto no tenía abogado, tenía duty counsel. El tampoco tenía un abogado, pero era un caso de abuso. No sé si tú puedes entender, pero había tanta presión...

(I had to go to court for child support, and for this I didn’t have a lawyer, I had duty counsel. He didn’t have a lawyer either, but it was a case of abuse. I don’t know if you can understand, but there was so much pressure...)
Wendy’s description demonstrates the long felt effects of abuse. Although her ex-spouse did not have a lawyer, the relationship retained an imbalance. He was the more powerful because of the long history of his control over her. In such a situation, a lawyer could play a critical role in addressing the power imbalance as an advocate for the woman (McDonald 1998b). It remains important to scrutinize, however, the interactions of lawyers with clients.

Celeste talked about why she did not show up for her divorce hearing.

*He finally did the divorce last year. I wanted it, but when it came down to it, I couldn’t do it. And I never went to court because I felt too bad and I didn’t want to cry and I just couldn’t do it and now I regret not doing it because he lied on the court papers a couple times. He had a lawyer and I didn’t – so I felt unequal like... I know I would have felt stupid going through the court with nobody.*

Celeste described at length her experiences with her lawyer.

*So I would call my lawyer and tell her this information – about whether he had showed up to see the kids or not. I called her twice in one day once and she told me don’t ever call me more than once a day. She was a bit rough, but I thought that we had a bond and were sort of friends. So I said I’m sorry to bother you and I thought you needed to know that information.*

The lawyer, by setting rules about Celeste’s access to her, was in effect controlling her. Celeste’s response, particularly because she thought they had a “bond” was bewilderment, but also guilt, because she had been disciplined. This could be one example of “normalizing judgement” where the control is exercised as a disciplinary power, a function of the hierarchical relationship that has been established and results in disciplinary coercion (Foucault 1979, 176). The client’s ambit of choice is restricted as normalizing judgement sets the parameters of action that is allowed and that which is not. Celeste was not allowed to call her lawyer to update her on her situation. Celeste described another interaction.
So I called my lawyer to tell her this, that I might not be able to serve the papers, and she told me to cut it out and stop playing games with her. Then after that, she sent me a letter saying she didn’t want to be my lawyer anymore because of that. And once she went to court, she called me the day before and said, you have to go to court tomorrow. After that, I thought, I’m not doing this again. And I thought we were only allowed one Legal Aid so I never went back.

When Celeste was not able to serve the papers, the lawyer questioned her commitment to the case and dropped the case. Celeste was not the perfect client, and the lawyer did not want a disobedient client. The lawyer must maintain control. Lawyers expect and inadvertently demand client obedience and thus, any alternative strategies are precluded.

It was a bad experience for me. I remember she wrote down on her paper that the only reason I was going after him was because the government cut my welfare cheque.

This occurred many years ago. Later, Celeste attended court unrepresented to seek child support when she was required to do so in order to continue receiving social assistance. Yet she acknowledged that many issues remain unresolved for her. That first experience with a lawyer had a negative impact on her.

Some women met their lawyers with a counsellor, both for translation and support. For many, this support helped them understand the process.

Cuando tengo una entrevista con la abogada, Viviana está conmigo para traducir.
(When I have an interview with the lawyer, Viviana is with me to translate.)

Viviana me ayudó. Tuve una entrevista con la abogada y le conté un poco de la experiencia que me pasó. Ella estaba ayudándome con la custodia del niño – y el support.
(Viviana helped me. I had an interview with the lawyer and I told her a bit about the experience that I had had. She was helping me with the custody of the child – and support.)

Gabriela remembered her first meeting of the lawyer where she was able to tell her a little bit of what had happened to her. She did not believe that the lawyer controlled the dialogue or was the only one who asked questions. Many of the women who participated
have been clients of one particular lawyer, with whom the Women’s Program works closely, and she is very experienced in working with immigrant women who have been abused. The women also attend meetings with their counsellors. Many of the issues such as “interpretive violence” identified by Alfieri (1991) did not appear to be present in the women’s dealings with this particular lawyer.

At the same time, however, the majority of the women themselves had very little interaction with the lawyer or understanding of the process and were very dependent on their counsellor to translate, to explain, to ask questions, and even to telephone the lawyer. Working through a counsellor seemed to decrease the woman’s potential for being an active participant in her legal action. In many cases, a dependency upon the lawyer is established very early in the relationship and is maintained throughout the dealings. This reduces the ability of the clients to participate in any meaningful way. Here, the dependency on the counsellor is created at the beginning of the relationship and encompasses many other relationships: the woman and the Legal Aid office, the woman and the lawyer, the woman and the welfare officer, the woman and Children’s Aid.

Freire rejects “pseudo-participation” and calls for “committed involvement” (1970, 51). Yet the imbalance in these relationships is so extreme because of the lack of language skills and the lack of information that “committed involvement” might not be possible. As with Gabriela, the counsellor’s assistance may have increased her participation from what it might have been because she felt she could ask questions and truly understand what was happening.

There was at least one woman who just wanted to get the work done.
I didn’t really like my lawyer, it was a him. But at that moment, I just wanted somebody to do the divorce...Now – knowing the Centre – I would definitely pick a woman lawyer.

Regina assumed that a woman lawyer would be more caring and allow her to have a more interactive relationship.

Natalia described at great length the day after her spouse had been arrested and was still in jail. Her words convey her agony and how Legal Aid and the system itself could not respond to her immediate needs for personal security and custody of her child.

Todas las abogadas estaban ocupadas. Llamaron a todos. Yo estaba allí. gritando, llorando.
(All the lawyers were busy. They called everyone. I was there, screaming, crying.)

The Women’s Program only has one lawyer on their referral list that they feel they can count on. Unfortunately, she is only one person. While there are other names, often these lawyers are too busy. The Women’s Program would like to have a larger referral list, but many family lawyers do not take domestic abuse Legal Aid cases with immigrant women because of the low fees paid, the emotional drain, the language barriers, and the complexities in the cases. While the Barbra Schlifer Commemorative Clinic now offers family, immigration, and criminal law services and does provide translation and counselling services, there is a long waiting list. As one of the staff commented to me, “We can’t send every client to Barbra Schlifer. They would be flooded.” So situations like Natalia’s continue to occur.

Tenía la idea que iba a matarme. Entonces cuando me dijo que llegaría la abogada en una o dos semanas, creo que me portaba como un león. Gritaba, no en una semana, quiero saber ahora, en la tarde. No ella no puede venir esta tarde. No importa. Yo la necesito!! Grité y grité. Pues tuve una cita en tres días.
(I had the idea that he was going to kill me. So when they said that a lawyer would come in one or two weeks, I think I behaved like a lion. I was shouting, not in one week. I want to know now, this afternoon. No,
she cannot come this afternoon. It doesn’t matter. I need her!! I shouted and shouted. Then I had an appointment in three days.)

This woman also described how she felt about the legal advice she was given.

En ese momento, yo quería que ella me dijera que iba a pasar, no lo que podría pasar o mis opciones. (In that moment, I wanted her to tell me what was going to happen, not what could happen or my options.)

Other women described their interactions with lawyers.

He asked me to do a lot of forms. So he would say to me, do this form for the divorce. I really didn’t understand the forms.

This woman freely admitted that she did not really understand the forms that she was being asked to sign. Rule 3 of the Law Society of Upper Canada’s Code of Professional Conduct states, “The lawyer must be both honest and candid when advising clients.”

(1995) It is further noted in the Commentary:

2. Whenever it becomes apparent that the client has misunderstood or misconceived what is really involved, the lawyer should explain as well as advise, so that the client is informed of the true position and fairly advised about the real issues or questions involved.

Whether this explaining actually occurs is doubtful, or whether the clients actually acknowledge their not understanding is similarly doubtful as Regina’s comments demonstrate.

Another woman described her experience with her lawyer in very positive terms.

La abogada era tan chula. Me explicó todo muy bien. No entendí la tardanza y siempre creo yo es bueno tener más información. Como mi inglés era muy pobre, tenía problemas con esto... (The lawyer was so kind. She explained everything very well. I didn’t understand the time it took and I always think it is good to have more information. As my English was very poor, I had problems with this...)

Language was certainly discussed by the women. It was not just lacking English skills, but the language of the law, or legalese, that was intimidating. Celeste described her reaction to this language.
Sometimes when you see these papers, they’re so lawyer-talk that I don’t understand anything. I put them aside and don’t touch them.

When the abusive partner had English skills and an understanding of the necessary law, the power he had over his wife increased. As Celia noted,

_El había estudiado bien la situación como es en Canadá y yo no entendía nada de las leyes. El hablaba inglés muy bien. Conoció las leyes._

(_He had studied well how the situation is in Canada and I didn’t understand anything about the laws. He spoke English very well. He knew the laws._)

Regina had made great strides in understanding what was needed in order to request permission to take her son out of the country to visit his grandparents. The original custody agreement was that the son should not be taken outside of Toronto. She, with some assistance from a counsellor, had done much of the document preparation herself and she spoke about briefly meeting with the lawyer from the legal clinic in the Centre. The lawyer was able to explain the purpose of her affidavit and how it should be written.

_And he gave me the words. You know, the words. The words._

This woman’s comments are particularly insightful because they illustrate how inaccessible the legal system can be because of the language needed. An affidavit, while a legal document, is intended to be the individual’s testimony of what has occurred. In a conversation with the clinic lawyer, he recalled the incident. His perspective on the situation was extremely different. He felt interrupted and frustrated when the staff member and her client showed up on his door for a short _consulta_. He said the affidavit they presented was “full of errors, in English, in form. It was entirely unacceptable.”

While not his client and not within his job mandate, he took time out of his hectic schedule to explain the purpose of the affidavit and provide some “words.” He felt he had
no choice, but was clearly frustrated by the entire incident. Given the demands of his work, this is understandable. As he knows, there is no legal support for the Women’s Program and where Legal Aid certificates do not provide representation, the women and the staff are left to their own devices.

Regina further described her experiences in the courtroom.

The judge asked me why don’t I have a lawyer. At that point, I had done so much on my own that I really thought, honey, I don’t need a lawyer. I really don’t need a lawyer. If I have the right information, people can do it on their own. I need the information and the procedures and the words and the forms.

These words were spoken with great confidence. The experiences of this woman had been frustrating. Court staff had not always been pleasant and she had had to redo her affidavit several times. Documents had been lost, or not filed properly. She had to do the preparation and filing on days off as the courthouse was only open during business hours. Most of the time she had felt confused about the whole process and only received information in bits and pieces: a 30 minutes free session with a lawyer, a few minutes with the clinic lawyer, one helpful court worker. She certainly believed that she could do it herself, but she did need assistance.

Celeste, however, described how she felt when she was at court.

Everything seemed like I was actually dreaming. Like it was me, but it wasn’t really me, you know. Disconnected from it.

This woman had duty counsel assist her when she was at court unrepresented.

Then I had a lawyer come and I met him like maybe five minutes before I had to go to court. He asked me questions and helped me fill out a form and then I went in with him. I think that happened twice. The last time I got custody of the children, total custody because he never showed up.
Like Regina, who talked about wanting to have a female lawyer represent her above, many women in speaking about the legal system described their own assumptions about lawyers or other players in the system.

*I assumed the judge would be male, but she was female and very nice.*

She [the lawyer] was a woman and I thought she’d understand. . . I liked her at the beginning. She had just had a baby and I went in there and she was breastfeeding the baby and hey, I thought, modern. But her office wasn’t that organized. They were very casual, not officey types. Maybe that’s how Legal Aid people are, or those who have just started. I don’t know.

This woman talked about how this lawyer was too “casual.” On the one hand, having her baby present was seen as a positive sign that she would understand her situation as a mother. The casual mode of dress and the office that was not organized seemed to signify lack of experience or something else that made this woman not trust the lawyer’s abilities. This comment raises interesting issues around the physical aspects of a lawyer/client relationship which might aggravate power imbalance. In Celeste’s situation, the less professional environment raised doubts about the lawyer’s abilities. When I asked her what lawyers should wear, she replied, “a suit,” but then retreated and said, “anything really.” When I was working at Parkdale Community Legal Services where services are provided without charge, there were clients who would pay a consultant or lawyer when there was no visible progress in their case. There was an assumption that paying someone would get the work done. What is clear from these examples is that there is little understanding about the role and responsibilities of the legal profession. The women identified this topic of information as an important one during the workshop.

Poverty law literature has talked about the intimidating impact of professionalization on clients (see Mossman 1983, Blazer 1990). For this reason, many
Ontario legal clinics are located in simple office buildings and lawyers, community legal workers and law students dress casually when meeting their clients. On a more practical level, far removed from theory, legal clinics also have limited budgets for capital equipment. For community clinics in Toronto, most are located within the community served and accessible to their constituents, as opposed to being located in expensive offices on Bay Street. Legal Aid lawyers similarly may not generate an income that would permit them expensive office space and equipment.

One woman assumed that using the legal system to enforce one’s rights would hurt her spouse.

*I’m the type of person that I don’t want to hurt other people. So because I didn’t want to hurt him in any way, I really didn’t follow the legal system.*

She saw the legal system as necessarily adversarial where there could only be one winner and one loser. If she were to have her and her children’s rights enforced, her spouse would be the loser.

Tita described how she believes lawyers help enforce agreements, such as child support.

*Conocí a una señora el otro día. Cuando ella contrató a un abogado, el abogado hizo mejor las cosas. El abogado insiste desde el principio, el dinero llega cada mes. No como en mi caso, donde había un acuerdo entre nosotros dos. No tuvimos abogados. Ruth vino conmigo y él tenía alguien de la corte. Pero con un abogado hay más fuerza. (I met a woman the other day. When she retained a lawyer, the lawyer made things better. The lawyer insists that the money arrives each month. Not like in my case, where there is an agreement between us. We didn’t have lawyers. Ruth came with me and he had someone from the court. But with a lawyer there is more force.)*

This woman questioned the force of an “agreement.” She did not understand that in the other woman’s situation, there would also be an “agreement” and the difference lies in the enforcement of the agreement. She attributed this other woman’s success solely
to the lawyer, whereas in reality, the enforcement of child support orders is far more complicated. She also learned about the efficiency of lawyers from another woman she met one day again demonstrating the importance of informal learning for these women.

Another woman echoed these thoughts about the role of the lawyer.

_Ahora me estoy arrepintiendo porque me dijeron si hubiera hecho con un abogado, que el abogado hubiera hecho para arreglar el caso para que él me pagara cada mes. Pero ahora no pasa nada._

(Now I'm regretting because they told me that if it had been done with a lawyer, that the lawyer would have been able to fix the case so that he would pay me each month. But now nothing happens.)

Ela firmly believed that going to court required legal representation.

_Para irse a la corte, se necesita un abogado. No se puede irse sin abogado._

(To go to court, you need a lawyer. You can't go to court without a lawyer.)

When asked how she knew this, she said she just knew. In her country, you could not go to court without a lawyer and she had also seen television shows.

MacLeod and Shin (1994) found in their study that the women's experiences with ethnocultural services were the most positive out of all the service providers and that many experiences with lawyers were not positive. Their experiences with the police were mixed, depending largely upon their experiences and expectations in their home countries. These findings are similar to the findings here. The experiences the women had with Legal Aid or with lawyers or other aspects of the legal system were influenced by a number of factors: the presence of a Spanish speaking counsellor, the urgency of the situation, the amount of information provided, the woman's emotional state, and her level of self-confidence.
Child Support

Child support was one area of family law on which all the women had something to say. While most of them knew that their children were entitled to child support, they had very little information and none had heard of the Child Support Guidelines. This is consistent with findings from a Department of Justice study on legal information needs for low-income women in Ontario regarding the Child Support Guidelines (McDonald 1999b). Margarita received her only information from a family member with whom she felt comfortable speaking.

> My sister-in-law has been giving me some information. So she says that if he's working, they can deduct straight from his pay cheque.

Tita described how her lack of English limits her.

> Como casi no entiendo el inglés no he podido preguntar. Pero él siempre les manda papeles diciendo que él ha pagado. Pero no ha pagado. Ahora no puedo hacer nada porque ese hombre ha salido para Ecuador.
> (As I barely understand English, I have not been able to ask. But he always sends them papers saying that he has paid. But he has not paid. Now I can't do anything because that man has left for Ecuador.)

I sought to clarify who “them” is and she told me that she meant the court people. On asking whether she had heard of the Family Responsibility Office (known before 1996 as the Family Support Plan) Tita replied,

> No, no conozco la Family Responsibility Office. Oí que iban a sacarlos por medio de su trabajo pero no sé que pasaría con esto.
> (No, no I don't know the Family Responsibility Office. I heard that they would take money off his pay cheque but I don't know what would happen with that.)

Again, Tita is “hearing” information about the role of the Family Responsibility Office. She received her information informally and much of it was incomplete or in the case of the Family Responsibility Office, inaccurate.

Regina expressed her frustration with her ex-spouse.
I would like to know what to do about child support. I called to the Family Plan and they said, you need a lawyer... But there is a problem. He knows about child support. He knows that. So he works for cash. He works on his own and he says to me, the moment you do that, I just stop working.

Kurz (1995) found in her study on divorce that many women had given up child support entitlements out of fear of their abusive ex-spouses.

Some women had had contact with the Family Responsibility Office.

Me pagaba, pero dejó de pagar. Entonces hablé con el Family Responsibility Office. El trató de mostrar que ya no tiene que pagar porque mi hijo mayor ya no está viviendo conmigo. Me gustaría haber tenido representación. Siempre quería que alguien me representara. (He used to pay me, but he stopped paying. So then I spoke to the Family Responsibility Office. He tried to show that he no longer had to pay because my oldest son was no longer living with me. I would have liked to have had representation. I always wanted someone to represent me.)

At least one of the men was paying child support. For most of the women though, they received no assistance and often had no idea where to contact their partners.

Me manda $100 cada mes. (He sends me $100 a month.)

Gabriela’s spouse sent $100 each month. They never discussed the amount in light of what he earned or what the child needed. She had never heard of the Child Support Guidelines. Indeed, given the stories she had heard from other women, she felt very fortunate to be receiving any money at all. With a lawyer’s help, however, she was in the process of receiving what her child was entitled to.

He never sent me a penny. He said he would help out and he never did. I had about $80 and he left without paying two months rent. I had to get welfare and they sent me a letter saying that I have to go after him for him to pay.

So I went to Jarvis Street. I had an appointment and met with a man who helped me fill out forms on how much I was making. I didn’t have an address for him so we used his mother’s address. He didn’t respond. I went to court and he didn’t show up. I think they did this three more times and he never showed up.
The women's comments reflect the general situation on child support. The Child Support Guidelines, introduced by the federal government in 1997 provide national guidelines on the provision of child support. Only one woman mentioned being entitled to spousal support. Many of the women had also attended court to seek child support when required to do so by social assistance authorities. From these women's comments, it would appear that despite legislation, many payors, who are often men, do not feel any legal or moral obligation to support their children.

**The Criminal System and the Victim Witness Assistance Program**

Only four out of the fourteen women interviewed had situations where their spouses had been charged and convicted in the criminal justice system. Almost all of the women, however, had had some experience with the police. Two of the critical assumptions underlying the research with the Latin American community in the Law Courts Education Society Comparative Justice Systems Project (1994, 57-59) were a fear of the police and an assumption of corruption within the police services. Not one of the women spoke about being afraid to call the police. In fact, many of the women saw the opportunity to call the police as the one way they could reach out for assistance.

Natalia, who came to Canada to work for a “dance company,” talked about her ideas about the police in Canada - *son estrictos, respetuosos* (they’re strict, respectful). The fact that the company assured her that the police had approved everything and because she had such a high regard for the police, made her believe that the operation was legitimate.

One woman with little English and primary school education called the police immediately when her spouse hit the child. She said she just knew inside that this was
wrong and that the police must be called. Other women called the police on different occasions. The responses they received were at times confusing and dictated their behaviour to some extent.

For example, Carolina, who was being stalked and harassed by her partner, had called the police and believed she understood their explanation of the complicated nature of pressing charges. She believed that she was being discouraged from seeking to press charges. A friend, who was also an immigrant, advised her not to press charges as she was in the process of her refugee hearing and told her that it would not "look good" for her if she was involved in a criminal proceeding. She took this advice and the matter eventually was settled through the intervention of his family. Again, this demonstrates that friends play a very important role in informal learning for the women. It also demonstrates that the lack of permanent status in Canada exposes women to extreme vulnerability. This has been commented on in the literature, both generally and with respect to the particular example of extremely vulnerable mail-order brides and military brides in the United States (Anderson 1993). An abuser may have made threats in this context or actually have withdrawn his sponsorship. In Canada, a woman in such circumstances might be able to make a claim to stay on the basis of humanitarian and compassionate grounds.

Carolina went on to remark that,

_Si supiéramos que no van a cuestionar esta problemática con el estatus... El problema es que muchos esposos usan esta amenaza. Después de repetir estas mentiras por tres años, la ley es así, claro uno va a creerlas._

_(If we knew that they are not going to question the issue of status... The problem is that many husbands use this threat. After repeating these lies for three years, the law is like this. Of course, you are going to believe them.)_
Police are now required to tell women that their immigration status will not be jeopardized. I spoke with Terry Spencer, Volunteer Co-ordinator with the Victim Services Program of Toronto, about the reality of police intervention for women who have experienced abuse. Terry, as other Victim Services workers, is a civilian who works in partnership with the police to provide translation, information and support for victims of crime and circumstance. There is a police protocol and specific training for domestic situations. For example, police are supposed to call Victim Services whenever there is a domestic situation. This does not always happen and if it did, Lynda Vickers, the Executive Director of the Victim Services Program, acknowledges that they do not have the resources to respond adequately.

One woman had called the police in between beatings. She reported that the police had told her that she must call immediately after the violence occurred. She felt frustrated and perplexed by this thinking; it did not make sense that she get hurt again in order to press charges.

This perception of the police, as helpful and approachable, might change depending upon the members of the community. For example, men or adolescents might have very different perspectives of the police. What is important is that the women in most cases did not hesitate to pick up the phone and call the police for assistance.

Gabriela described giving her statement to the police after her spouse had been arrested.

Después yo me fui a la estación de policía para decirles lo que había pasado. Y la conversación me grabaron y con el video – lo que yo dije y todo. Necesitaba traductor. Quedaba grabado porque en la corte necesitaba este testimonio. No estaba mintiendo, estaba diciendo la verdad.

(After I went to the police station to tell them what had happened. And the conversation was taped and video-taped, what I said and all. I
needed a translator. They taped it because in the court they need this testimony. I wasn’t lying, I was telling the truth.)

Margarita had a similar experience with criminal proceedings. Despite the efforts by the Victim Witness Assistance Program to prepare her for the trial, she did not show up and said it was because she could not find childcare. Margarita also talked about what not showing up meant to her. She did not understand the distinction between the criminal trial and the civil issues, such as support, that were most important to her.

They filmed me and asked me what had happened that night. And when it came to the trial, I couldn’t show up. Cause at that time, my parents weren’t here. They were away so it was just me and the kids and I couldn’t get a babysitter. I felt badly, actually devastated that I couldn’t go. I would have wanted to go to see my rights – I mean I have my two kids and he doesn’t give me anything, like child support. That’s one thing I want to find out about more.

The two women who had used the Victim Witness Assistance Program were very pleased with what it had offered them. Margarita described her meeting.

First, I was called to have a little show around. I went there before the trial. They told me what it would be like, to be with the judge. It was helpful.

Gabriela remembered her meeting clearly.

Me mandaron una carta para darme una appointment (shows me the envelope). Yo me fui allí y me explicaron como era lo de la corte, que no sintiera miedo y me dieron saber lo que podía pasar si yo asistía a la corte. Que yo tuviera que hablar así, que me quedara tranquila, calma, que no me pusiera nerviosa, que contestara las preguntas, que no mintiera. Y también me explicaron lo que podría pasar si mi esposo se declaraba culpable.

(They sent me a letter to give me an appointment. [shows the envelope] I went there and they explained how the court was, not to be scared and let me know what would happen if I went to court. That I should speak this way, that I should remain calm, that I shouldn’t be nervous, that I should answer the questions, I shouldn’t lie. They also explained what could happen if my husband were to be found guilty.)

Gabriela spoke about the importance of understanding what could happen.

Me ayudó muchísimo, porque no sabía lo que podía pasara. No sabia como era lo de la corte. Me sentía como con miedo, no entendía nada. Pero después de esta entrevista me sentía con más confianza. Me sentía para enfrentar a mi esposo.
(It helped me a lot, because I didn’t know what would happen. I didn’t know what the court was like. I felt afraid, I didn’t understand anything. But after this interview, I felt more confident. I felt like I could confront my husband.)

The announcement in January 2000, by the Attorney General of Ontario to double the number of courts dedicated to domestic violence cases from eight to sixteen was met with positive response. In Toronto, three sites will added in Etobicoke, Scarborough and at College Park to complement those already at Old City Hall and in North York. The women did not comment on any other initiatives such as the designated domestic assault and sexual assault coordinators who are Crown Attorneys with specific training in the social, psychological and legal issues involved in the prosecution of these offences.

Five additional Victim Witness Assistance Program sites will also be established in the province. One drawback of the program is that because it is under the auspice of the Ministry, it is not neutral, but rather part of the state. The program as such cannot provide direct assistance with testimony or a victim impact statement. It is only able to provide general information on the court and procedures. While there are organizations that can assist with victim impact statements and the preparation of testimony (CAVEAT, Barbra Schlifer Commemorative Clinic), resources are often limited and their services are not widely advertised. Only one of the women who went through the criminal process talked about her victim impact statement.

Ana commented that all she wanted from her partner was that he understand that what he had done was wrong and that violence against women is wrong. She doubted that that would occur. Other women were pleased that the conditions of parole for their partners included restrictions on their access to them and their children. In the case of Gabriela though, she allowed her spouse to move back in despite these parole conditions.
For most of the women, the criminal justice system could not really respond to their needs. Except for Natalia where,

_Cuando estaba en la carcel, me entró una calma increíble . . . (When he was in jail, I felt an incredible calmness . . .)_

Overall though, the criminal justice system did not figure predominantly in the women’s legal information and education needs. Where safety, particularly for the children, became a concern, the police were called and the process followed. The experience of appearing in court (or not) passed, but it did not linger in their minds. Their daily concerns were custody, child support, and other family law issues.

_On Information_

Handler (1988, 1000) argues that before one can begin to discuss the quality of participation in a relationship, the issue of power must be addressed; dependent people have to regain their autonomy in order to participate effectively.

Few of the women talked directly about legal information. Those who did were very clear that they believed it was very important.

_Es muy importante tener lo más información posible. (It’s very important to have as much information as possible.)_

Natalia talked about how information, presented in both written and verbal form, helped to calm her fears.

_Le dio un libro [muestra un libro “Know your Rights” published by the Barbra Schlifer Commemorative Clinic] y no dormí la noche. Yo estuve leyendolo. Ruth me explicó todo en el Centro, mis opciones, lo que puedo hacer. Me había amenazado tanto que yo tenía tantas preguntas, tantos temores. (She gave me a book [shows a book, “Know your Rights published by the Barbra Schlifer Commemorative Clinic] and I didn’t sleep at night. I was reading it. Ruth explained everything to me in the Centre, my options, what I can do. I had been threatened so much that I had so many questions, so many fears.)_
Only Regina spoke directly about mediation. In her first experience, she did not understand what the mediator was talking about as he referred to the Hague Convention several times. Later, through the Lawyer Referral Service, one of the counsellors arranged a thirty-minute free session with a lawyer who provided some important advice.

_The lawyer whom we had seen for free for 30 minutes told us to ask to speak to the mediator alone. You have the right to do that. We did that and it was much better. Having Ruth there to support me also helped. And having the information made a big difference. I felt much better with my affidavit and understanding what it was for and why I was doing it._

For Regina, knowing that she could ask to speak to the mediator alone, having Ruth along for support, and understanding the purpose of her affidavit, helped her a lot with the process. Kurz (1998) found in her study on divorce and violence that women’s experiences in their relationships made them fearful during negotiations.

On the other hand, Ela was clear that she did not need any legal information.

_Si yo necesito una ayuda legal, yo voy a un abogado._

_(If I need legal help, I’ll go to a lawyer.)_

While the women did not discuss legal information and education directly, they were very aware that they knew or understood very little about the law, the system, and what it meant for them. Cynthia spoke with passion about this.

_Y no sabia nada de derechos legales. No sabia de mis derechos como mujer o como ser humano y no sabia nada de adonde ir, o a quien acudir para tener ayuda con todas esas cosas._

_(And I knew nothing about legal rights. I didn’t know my rights as a woman or as a human being and I didn’t know where to go, or who to approach to get help with all those things.)_

While most of the women talked about their family law issues, two women described their thoughts during the refugee claimant process. Carolina felt she had enough information to understand the process. She was provided with reading materials in English and Spanish. Community Legal Education Ontario publishes numerous materials
on refugee and immigration issues as these are key areas for many clinics. Carolina found, however, that getting case updates or more detailed information was very difficult.

_Yo creo en realidad, no tenían ninguna intención de informarme._
_(I believe that in reality, they had no intention of informing me.)_

Another woman noted how she knew nothing about the process or the purpose.

_I applied for refugee status when my husband was here. I didn’t know what it meant or its purpose, but I filled out some forms and sent them in. I saw the lies in the story._

After her spouse left, she received help from the Centre. She learned about the refugee claimant process and submitted a new claim as an abused woman.

_Cynthia spoke about what it meant to her when she started to learn that there were options other than staying in her relationship._

_Para mí, lo más importante fue saber que sí tengo derechos como esposa y como ser humano._
_(For me, the most important thing was to know that yes, I have rights as a wife and as a human being.)_

At the beginning of the workshop, many of the women expressed their expectation that they would learn about the law. I clarified that the workshop would not actually contain content. As well, after many of the interviews, women asked me legal questions. As I noted earlier, in most cases I would refrain from answering. These questions and the expectations of the women to learn about the law are important aspects of understanding their needs. While many never said, I want to learn about this or this, their individual questions to me clearly indicated both interest and need.

This woman describes her feelings of being locked in her relationship.

_Estaba como diciendo, como en un círculo como no me atrevía nada pero era siempre lo mismo. no._
(It was as I was saying, like a circle where I wouldn't risk anything but it was always the same.)

She attributes this sense of isolation to her lack of information about her options, legal and otherwise.

...tengo yo la experiencia de sentirme muy sola y muy ignorante en todos los derechos que tenía y la ayuda que podía recibir en todos los sentidos.
(I have the experience of feeling very alone and very ignorant in all the rights that I have and the help that I might receive in all senses.)

Knowledge is very powerful. It can be manipulated and used to control and intimidate, as it has been done by many of the women's spouses. The very lack of knowledge can serve to isolate and create and/or maintain a dependent relationship. Knowledge itself, while it can be overwhelming, can also be very liberating.

Learning and the Women's Legal Experiences

Como dije antes, estaba completamente ignorante, era como que no sabía de nada.
(As I said before, I was completely ignorant, it was as if I knew nothing.)

During the interviews, all the women were asked specifically if there were anything about the law that they would like to learn. For some women, this was a difficult question, as their experiences with the law had occurred some time ago and they had no immediate legal needs. This underscores a basic principle about adult education: that adults will learn only when they are motivated to do so, whether through need or interest. With legal issues, most adults react to situations so that they will seek out information only when confronted with a legal problem. For example, one woman responded that she wanted to learn how to raise her children as a single mother. With three children under the age of ten and no father around, this was her biggest concern at the time of the interview. She also believed, however, that legal issues, such as child support, were
beyond her understanding and control and without English, she could not imagine learning about the law. Celia wanted to learn how to set up a small business. Or as Ela put it,

En realidad, llamaré a mi abogada si quiero saber algo legal.
(In reality, I will call my lawyer if I want to know something legal.)

Ela further noted that if her plumbing were broken, she would call a plumber. In discussing this deference to expertise with staff at the Centre, it was noted that such deference is common among Latin Americans although I have not found literature to support such a generalization. It is arguable that such a deference exists in society at large. As Lopéz notes, “... clients tend to exaggerate both what lawyers know how to do and what distinguishes this knowledge from their own” (1992, 48). Or as Gordon summarizes nicely, “The entrenched societal belief that a lawyer, doctor, or accountant knows how to solve problems better than the layperson also encourages this response” (1995, 438). The other women made no such direct comments, indeed, quite the opposite. Later on in the interview, Ela, who had worked consistently as a seamstress in her home country and in Canada commented,

Me interesa la ley laboral y todos los asuntos familiares.
(I'm interested in labour law and all family issues.)

Some women commented on what they wish they had known during their various legal proceedings.

En el pasado, me gustaría haber tenido cualquier información sobre los derechos de una madre soltera con respecto a su hijo. Quería saber las diferencias en la ley de Canadá y la ley de Chile.
(In the past, I would have liked to have had whatever information on the rights of a single mother with respect to her son. I wanted to know the differences in the law in Canada and the law in Chile.)

Most women though had outstanding legal questions that were important to them.
Quiero entender Children's Aid y los foster parents. Quiero entender mis derechos como abuela. . .
(I want to understand Children's Aid and foster parents. I want to understand my rights as a grandmother...) Overall, they all wanted to know more about family law issues.

Family law - everything - custody, support, separation, divorce. Name change.

La ley afecta toda la vida. Me gustaría saber mucho más sobre la ley en general. Vivi muy encerrada, sin conocer mis derechos. Me gustaría saber y entender un poco más de todo.
(The law affects everything in life. I would like to learn much more about the law in general. I lived very enclosed, without knowing my rights. I would like to know and understand a little more of everything.)

Quiero saber todo sobre el divorcio – cuanto tiene que pagar él, cuanto tiempo va a tardar, los trámites...
(I want to know everything about divorce - how much he has to pay, how long it is going to take, the paperwork...) I would like to know now how to change that divorce judgment that says I cannot take my son out of Toronto. That settlement about custody.

I need the minimum to know the procedures!

Family law issues dominated both the interviews and the workshop. During the workshop activity on legal information needs, the women developed a list of areas of law that would be most important to Spanish speaking women who had experienced domestic abuse. This list was compiled after much group discussion and the input of all the women and the staff from the Women's Program.

1.0 Family law - process, options, cost, and our rights
1.1 Child support - in Ontario, in other provinces, in other countries
1.2 Kidnapping of children - international agreements, citizenship, dual citizenship
1.3 Custody - joint, sole, benefits, disadvantages, options
1.4 Separation of property
1.5 Separation and divorce
1.6 Economic situations - how custody, access and support are not related, how a woman’s economic situation will change upon marriage breakdown
2.0 Legal Aid - criteria used, types of cases, how to appeal

3.0 Immigration Law - process, options, cost, and our rights
   3.1 Refugee issues - criteria, alternatives (humanitarian and compassionate applications), domestic violence as a refugee claim
   3.2 Sponsorship breakdown

4.0 Young Offenders Law - process, their rights, our rights as mothers, cost, options

As well, and in no particular order, the women wanted to learn about:
® Resources to help them with and through the system
® The legal profession - responsibilities of the women as clients and the lawyers, what is in a retainer, options
® Legal vocabulary
® Name changes

Interestingly, criminal law and how it can apply to cases of domestic abuse was not identified by the women or the staff as a priority issue. The women, whose partners had been charged with criminal offences, had received positive assistance from the Victim Witness Assistance Program. The women may also not have raised it because while primary witnesses, they are not a party to the proceedings and might not have felt involved. Many of the women also had no experience with the criminal system, either because the abuse would not have constituted charges under the Criminal Code, because they never reported the abuse, or because their partners have disappeared.

Wendy raised issues with young offenders as being of great importance. She spoke passionately to the small and large groups about her experiences when her teenage son had gotten in trouble with the law. She felt “lost” and “overwhelmed” and had no idea what her son’s rights were or what the duty counsel was doing. She strongly believed that every woman in the room (and indeed every parent in the community) needed to understand their rights and their children’s rights as a preventative measure. She argued that every parent must be prepared. This led to a good discussion on how the
cycle of violence is passed on to the next generation and how many of the children at the Farm had actually witnessed violence against their mothers. After this discussion, the group as a whole agreed that this topic should appear in the priority list. This is one of the few topics that was identified by the group for prevention. As well, it is one of the few topics where it was agreed that men and women could and should learn together.

Only one woman had raised the immigration issue of refugee claims and alternatives. She was the only woman in the group without permanent residency status. As noted, the group was not representative on this characteristic. The staff noted that sponsorship breakdown is a grave problem and should also be included on the priority list.

The staff also highlighted the grave importance of international kidnapping of children. As the interview findings show, many of the women talked about threats against their children. Yet they did not connect these threats with any legal remedies. The staff again highlighted the importance of learning not just information, but alternatives and an understanding of why the system does not work for the women. This issue was raised during the discussion of Legal Aid. The staff advocated a critical look at Legal Aid and the women agreed.

With the exception of Cynthia, who wanted to learn everything possible about the law because it affects "all your life," areas of interest were confined mostly to what women believed they needed to know. Hence, women who had permanent residency status were not interested in immigration issues. At the time of the interviews and workshop, no women were involved in criminal proceedings. Neither the women, nor the staff prioritized the criminal justice system for domestic abuse cases. Perhaps this is
because there do exist written, audio and visual materials in many languages that address these issues. There exist public education campaigns, posters and public service announcements, which aim to increase awareness for women and the general public. Since we were focusing on priorities, this was one area that has some resources behind it. Yet young offenders' issues were extremely important to the women and from a prevention perspective, as opposed to the women having an immediate need to understand these issues.

The Women's Learning Strategies

Women were asked during the interviews how they wanted to learn or how best they learned. For many women, this was another difficult question, perhaps because they had never been asked such a question before. Where two of the women could not answer the question, I gave examples to help them understand it. When the women merely agreed with me, I have not attributed these ideas to them due to my influence. This was one area where the effectiveness of the workshop coming after the interviews was clearly demonstrated. The women were familiar with the question and certainly some already had expressed their ideas about how they wished to and liked to learn. Several hours were dedicated to brainstorming on this issue and women were asked to develop a program to address their learning needs. Working together, they did just that. This collective inquiry really did help to develop group ownership of information and solutions to problems.

This study has sought to examine the factors that could impede learning about the law for Spanish speaking women who have experienced abuse, such as the impact of trauma, the legal profession, and funding. As well, it has sought to identify factors that could enhance learning for the women.
Importantly, many of the women in the interviews did talk about circumstances when learning was difficult. Tita describes her inability to concentrate at the time of separation, which for many women in abusive relationships is a time of danger, insecurity, and great loss.

Ahora estoy más tranquila. No tengo muchos problemas porque cuando me separé, tenía muchos problemas. Tenía muchas dudas, entonces nada cabía en mi cabeza. Iba a la escuela, y no me podía concentrar. No podía prestar atención a la maestra.
(Now I am more calm. I don’t have many problems because when I separated, I had many problems. I had many doubts, so that nothing else fit in my head. I was going to school and I was not able to concentrate. I could not pay attention to the teacher.)

Natalia, who was in extreme crisis at the time of separation, noted:

Para aprender algo como las leyes y sus derechos, tiene que estar muy enfocada. Esto no es posible durante estos primeros días. En cuanto la mujer esté segura de que estará con sus hijos, en este momento, ya empieza a calmarse un poco. Es la cosa más importante. Y después cuando se de cuenta de que no van a deportarla.
(To learn something like the laws and your rights, you must be very focused. This is not possible during these first days. As soon as the woman is sure about the future of her children, at this moment, she will begin to calm down a little. That is the most important thing. And afterwards, when she realizes that they are not going to deport her.)

She further noted that,

Los grupos son buenos, pero en estos momentos, no. Cuando uno se siente más segura, cómoda con lo que ha pasado...
(Groups are good, but at these moments, no. When one feels more safe, comfortable with what has happened...)

In applying these comments to what we know about the impact of trauma on learning, some interesting thoughts arise. Women, at the time of crisis, need individual, one-on-one support.

Es muy difícil porque es una crisis. Uno no se siente bien y se siente muy aislada. La cabeza está llena y no puede enfocar muy bien. Entonces participar en un grupo sería muy difícil. Toda la adrenalina estaba adentro. No podía haberme sentado para platicar con un grupo de mujeres. Me sentía loca y actuaba como si fuera loca.
(It’s very difficult because it is a crisis. You don’t feel well and you feel very isolated. The head is full and you can’t focus very well. So participating in a group would be very difficult. All the adrenalin was
inside. I would not have been able to sit and talk with a group of women. I felt crazy and acted as if I were crazy.)

They are seeking uncomplicated information and simple advice. Too many options are confusing, and the lack of sure outcomes only contributes to their sense of instability and fear.

Unfortunately, the legal system cannot provide guarantees in many situations, particularly around issues like custody and immigration status. As well, the lawyer is required to present the client with their options. The client is to instruct the lawyer on the appropriate action to take. They learn that their role is to advise their clients and act according to their clients’ directions. The nature of this role is suggested in the Law Society of Upper Canada’s Code of Professional Conduct (1995) where Rule 3 states, “The lawyer must be both honest and candid when advising clients.” From the data, it appears that an intermediary (counsellor, friend, social worker) has a critical role to play during this time to provide support and reassurance where the lawyer might not be able to.

Issues in family law often raise complex emotions. A few of the women expressed their feelings about their relationships.

This was very, very hard for me because it was like actually acknowledging that my marriage failed and I’m like the only one in the family that has that. And everybody looks down on that.

Yo me siento muy mal con mi esposo. El no me quiere más y yo pienso en divorciarnos.
(I feel very badly about my husband. He doesn’t love me anymore and I am thinking of getting a divorce.)
These emotions form part of the experience of marital breakdown for women and there should be space to include them in any learning about the law. We also know that the effects of violence and trauma can be manifested in a number of ways and can be both short and long term. The implications of these limitations on learning will be discussed further in the following chapter.

Importantly, women also spoke at some length about factors that would enhance their learning. Gabriela noted,

*Me gustaria aprender en mi idioma, yo entiendo más así. Me gustaria participar. Hay cosas personales, mis experiencias que no quiero que otras sepan, pero si me gustaria ayudar. También visitar a la corte y tener materiales escritos. El uso de dramatizaciones seria bueno también. (I would like to learn in my language, I understand more that way. I would like to participate. There are personal things, my experiences that I don't want others to know about, but I would like to help. Also visiting the court and having written materials. The use of skits would be good also.)*

Learning in Spanish was important to all the women, or learning in a bilingual setting, as many of them realized that the legal vocabulary that they would need is in English.

*Learning by seeing and doing was also important.*

*Celeste talked about the importance of not feeling overwhelmed, especially when the topic is complicated.*

*I find that one session is not enough. It's too overwhelming. I find that it's too much information at one time and if it were cut in half— one session. some written stuff to take home and read. then the second session you could move on and understand a bit more.*
Written materials, again in Spanish or in both Spanish and English, were important to all the women. Community Legal Education Ontario has not traditionally produced family law materials. One of the clinic's roles is to support the clinics throughout the province so their materials have been directed at the poverty law issues, such as housing, income maintenance and refugee and immigration issues, that are handled by the clinics. As the private bar has been responsible for family and criminal law, there have been few materials. A study on the legal information needs of low-income women regarding the Child Support Guidelines (McDonald 1999b) demonstrated the overwhelming need for basic materials in family law. The study has prompted CLEO to develop self-help materials for the Unified Family Court.⁴ Cossman and Rogerson, in their submission to the McCaumus Report on family law and legal aid, call for a “...greater emphasis on and availability of educational materials” (1997, 910).

Reading is important. When I need to learn something or understand it, I will read it through very well.

Also some practice papers. Working through the documents would be really helpful. Like if you have a document, a fake one, but a real one, then you could go over it and actually write on it and understand what it meant. So when you see it in court, it's not as scary.

Given the complicated nature of many legal issues, Ana commented that written materials, while good, are not enough.

Personas leen, pero no entienden. (People read, but they don't understand.)

Women consistently emphasized the importance of learning from the experiences of other women. Given that much of the information women obtain is from their friends or other women, this is not surprising. Maria noted,

El adulto aporta sus experiencias – la experiencia es muy importante.

⁴ Conversation with Mary Marrone, Executive Director of CLEO, August 1999.
(The adult carries her experiences - the experience is very important.)

Wendy, who had had negative experiences when she sought assistance, summarized her thoughts.

Aprendemos mucho por nuestras amigas. Por ejemplo, hay muchas mujeres que tienen mal concepto de los refugios. Es mejor unirnos, digo yo.

(We learn a great deal through our friends. For example, there are many women who have poor concepts of the shelters. It's better to unite together, I say.)

Wendy had a clear understanding how negative images of shelters and other social services agencies or individuals are developed through her own experiences and that of many friends. She believed, however, that through positive reinforcement from friends, women could access the resources that are there to help them. Cynthia talked about the importance of confidence that you gain when you are not alone.

Vas a estar mucho más confiada porque es una amiga que ha experimentado lo mismo.

(You are going to be much more confident because it's a friend who has experienced the same thing.)

These thoughts have been echoed in the poverty law scholarship. In the traditional model of lawyering, the issues are dealt with as distinct, unrelated disputes, without reference to the larger contexts, whether gender or class or race. Alfieri (1988, 683) calls this “dependent individualization.” Bellow (1977, 55) observes that:

[The lawyers treat clients and problems individually. No efforts are made to encourage clients with related problems to meet and talk with each other or to explore the possibilities of concerted challenges to an institution's practices.

Thus, the clients see their problems as only their problems, in a vacuum, which reinforces the alienation, isolation and shame that they may already feel. They are denied the opportunity for, and the potential empowerment that lies within the collective force of the community. The women who participated in this study recognized this. Gabriela’s
comment succinctly sums up the importance of not being alone and her sentiments are echoed by others.

Celia reflected on her experiences with the legal system. In talking about how alone she felt, she noted,

Me habría gustado tener la experiencia de otras mujeres.
(I would have liked to have had the experience of other women.)

Tita confirmed her thoughts.

Creo que me hubiera ayudado mucho la oportunidad de escuchar las experiencias de otras mujeres con el sistema legal.
(I think it would have helped me a great deal the opportunity to hear the experiences of other women with the legal system.)

Cynthia beautifully described the emotional and intellectual learning that can occur when one uses the experiences of women as a foundation.

Se aprende mucho con la experiencia de otras mujeres. Es un intercambio de ideas, un intercambio de emociones, un intercambio de los problemas.
(One learns a lot with the experience of other women. It's an interchange of ideas, an interchange of emotions, an interchange of problems.)

Popular knowledge, or common sense knowledge (Maguire 1987, 38), is a key feature of participatory research. It is that knowledge belonging to the participants at the grass roots level. In research, it is assumed that ordinary people have rich knowledge and also are capable of generating the knowledge necessary to engage in activities for their own benefit. These women clearly believed in their own knowledge and that it should be valued and part of any learning experience.

At the same time, during the workshop and the interviews, the women emphasized a role for professionals, or people who had experience with the legal system. The women acknowledged that there is so much information that they do not have and do need to begin to understand the implications of the law for them.
I would like to hear from professionals because they have the experience. I think it’s important to hear from friends too, but they don’t always have the answers – they know only what they went through.

Me gustaría aprender por medio de una persona o personas que me expliquen como es la ley.
(I would like to learn through a person or persons who would explain to me what the law is about.)

We know that people often do lack information, skills and experience to critically understand and analyze the social structures and relations that shape them. The women themselves recognized this and decided that they wanted professionals to be involved to address this problem.

Structure seemed to be important to the women.

Seria mejor asistir a un curso, o clases, porque siempre aprendo mejor. La Señora Ruth ha dado charlas y así me gustan.

It would be better to attend a course, or classes, because I always learn better. Ms. Ruth has given talks and I like those.

Similarly, Gabriela believed that a teacher, a facilitator, helps her learn. She also highlighted the importance of participation to reinforce any individual learning through reading.

Aprendo mejor cuando alguien me enseña, me orienta, me da información. La participación es muy importante. Los derechos de uno y los derechos que la corte tiene – tienen que leer, pero aprendo más participando.
(I learn better when someone teaches me, orients me, gives me information. Participation is very important. One’s rights and the rights that the court has - you have to read these, but I learn more participating.)

Margarita noted that for her,

Participation really, really helps as well. I don’t like it when one person is talking and talking cause I find when they do all the talking that I stop paying attention. But some talking and lots of questions.

Learning together in a group was also considered important, except during crisis times, when individual attention is critical.
Creo que las discusiones y los talleres son buenas formas de aprender. Eso ayuda mucho – trabajando con otras mujeres con los mismos problemas, en grupos. Y con la información necesaria – porque la ignorancia es lo peor – se siente completamente perdida – (I believe that discussions and workshops are good ways to learn. That helps a lot - working with other women with the same problems in groups. And with the necessary information - because ignorance is the worst - one feels completely lost - )

The size of the group does matter as Margarita noted,

I think a small group is better than a large group cause then you get everyone talking and everyone's ideas.

The women were clear in their needs. Regardless of the level of formal education each had completed, they were very aware of how they learned best. Working together, the women combined their collective desires and wisdom and recommended a program that would address their needs. The results from the workshop activity were described in the previous chapter. What follows is their program that came from follow-up discussion of the workshop and interviews with staff and the women in the fall of 1999.

The Right to Know

The program the women designed is based on several basic principles:

1) That accurate and clear information about the law, as well as a critical understanding of its impact is necessary. This information should be conveyed in a variety of forms and in both English and Spanish.

2) That the women themselves should be involved in and contribute to the learning experience as much as possible.

3) That assistance from professionals or people with experience will be an important part of the learning experience. Professionals also have a great deal to learn from the women.
4) That the legal system in Ontario and in particular, Legal Aid Ontario, cannot address all the representation, information, and education needs of Spanish speaking women who have experienced abuse. The reasons for this are many and complex, but the implications are difficult and frustrating for the women.

A number of initiatives must be developed and implemented to address the many legal information and education needs of the women.

1) Development of legal education workshops

Both in the interviews and the workshop, the women identified the use of workshops (talleres) as being an important component for their learning about the law. Individual women articulated aspects of this form of collective learning that were important to them. During the workshop these aspects were combined to produce possible models. Two models were identified: a) an intensive, 2-3 day retreat similar to the very one they were participating in or, b) a series of 2 hour workshops in the city. Participation and experiential learning were stressed as being important and women who have dealt with the legal system should be involved in both the planning and the running of the actual workshop. As noted above, the women did see a role for professionals or those with knowledge (lawyers, others). They want the language of instruction to be Spanish and materials, in Spanish, both printed and audiovisual, should be used. Of course, practical details such as childcare, transportation costs, refreshments, and the scheduling, must be sensitive to the needs of the women.

What was clear from the women was that while they sought structure and information from professionals, important learning would also come from sharing and
discussing the experiences of other women. The women certainly valued their popular knowledge. Vio Grossi (1981) argues that it would be naïve for researchers to believe that popular knowledge is enough to challenge the power of the dominant class. The subject matter, the law and more particularly issues in family law, can be complex, both in content and in process. The women knew that while many of them had had experiences with the legal system and knew about it, they often did not have all the answers or they might even have incorrect information.

Vio Grossi suggests (1981, 46) that researchers must elicit, organize and systematize existing popular knowledge, identify and adapt existing scientific knowledge for the benefit of the people, and create new knowledge from a synthesis of popular and scientific knowledge. This is what the women have requested. By eliciting, organizing, and systematizing the knowledge that the women have about the legal system, in particular, family law, it will be possible to create a learning atmosphere that is a synthesis of their knowledge, as well as the technical legal knowledge.

Many public legal education programs that include information sessions or workshops do not address these needs. They duplicate the lecture-style found in most formal places of learning, such as high school or university. Freire (1970) called this the “banking” education where passive learners receive deposits of pre-selected, ready-made knowledge. Gordon (1995) describes the Workplace Project. She highlights the differences between the Project’s Freirian educational initiatives and the “know-your-rights” workshops using the “banking” format of most other Legal Services programs or in Ontario legal clinics (McDonald 1998a).
Lawyers will use methods that generally replicate patterns of earlier schooling such as lecture format and written materials, with a top down model of instruction which fosters respect for authority, experts, discipline and good work habits.

The women, however, clearly want a different form of learning to address their needs. The educational component of participatory research can give participants a way to develop an understanding of social problems, their causes and ways to overcome them. By identifying their needs and how to address them, the women are beginning to develop an understanding of the problems inherent in the traditional model of legal services.

2) Development of a peer support program

It was clear from the interview data and the workshop that the support of women who already have experience with the legal system is valuable. Participatory research starts from the idea that knowledge has become one of the most important foundations of power and control (Tandon 1981). Further, it assumes that power is in part derived from control of both process and products of knowledge creation. Participatory research also assumes that ordinary people, given tools and opportunities, are capable of critical reflection and analysis (Maguire 1987).

Because of this focus on peer support, the women are seeking to develop a program that would provide training to women like themselves and then allow them to act as peer supports to other women. Training in basic legal information, domestic abuse, and immigrant women, as well as the social services system in Toronto is essential. Peer supporters would not replace lawyers or counsellors or educational workshops. They
would provide individual support to women who might have to go to court unrepresented or to a Legal Aid office or who might just want to talk about what she is going through.

In Zalik's study (2000) with street youth, the youth identified the important role that their peers could play. Many in her focus groups talked about the success of peer counselling in HIV/AIDS education and indicated that they would rather remain ignorant, than seek out a lawyer for information. For this extremely marginalized group, where criminal issues are often at stake, the power imbalance between lawyer and client may be greatly magnified. Only a few of the women were intimidated or too embarrassed to seek out a lawyer. Many of them, however, were denied access to a lawyer because of restriction in Legal Aid coverage.

The Law Courts Education Society (1995) found that women have trouble accepting information from the government; they need legal information from an agency they can trust. MacLeod and Shin (1994) found that word of mouth is the most common, effective and trusted method of sharing information. Written information provided by a stranger will have little impact. The women themselves repeatedly spoke of learning about the law from friends, family, or members of their community. Given these findings which are supported by previous studies, there is great sense in providing accurate information to the women themselves who will in turn distribute this to others. In the process, the women themselves are gaining knowledge and a sense that they are helping to create change.

3) **English as a Second Language Law Curriculum**
For many of the women, learning English is important and so while they requested workshops to be conducted in Spanish, many also attend ESL classes; many are required to attend classes as a condition of social assistance. The women suggested the incorporation of legal content into ESL curriculum. This was one suggestion where both women and men could learn together.

Such legal content ESL classes do exist in British Columbia at The People’s Law School. Almost all of the women had attended ESL classes when they first arrived in Canada. Given appropriate funding for the development of curriculum and the training of ESL teachers, this is an ideal way to reach newcomers and provide them with invaluable information that they can use or keep.

4) Printed materials/translations

Some printed materials already do exist, while some must be translated. As noted, there are very few materials available on family law issues, though CLEO is addressing this. This initiative will involve the collation and translation of existing materials and development of new materials to address specific issues for Spanish speaking women.

5) A directory of lawyers for immigrant women who have been abused

The women and the counsellors spoke consistently of difficulties in retaining lawyers, particularly in family law. The Women’s Program is dependent on the services of one lawyer in most situations. While there are other lawyers who will accept cases, the women and counsellors really wanted to be able to make informed decisions when
seeking to retain a lawyer. This is often difficult because of the urgency of situations for the women.

Interval House, a shelter in Kingston, has surveyed practicing lawyers in that city and compiled a directory. The results of the survey are available to women and they can then choose lawyers. The shelter does not make any recommendations.

The women suggested the compilation of a directory of lawyers for immigrant women who have been abused. This directory could be used by all the ethnospecific organizations and women's shelters in the city. A proposal was submitted for this project to Pro Bono Students of Canada, but at the time of writing there have been no responses.

6) **Increased assistance for unrepresented women in court**

The women identified the need for representation. They also want to understand the many documents and the process involved in the family law system. Without significant increases in resources, this is not something that can be addressed in the short term. This may be one area where the women, with a more comprehensive understanding of the problems and increased confidence, are able to lobby the government for increased resources.

In the interim, I sought out alternatives to address these needs. The Family Law Court Project of Pro Bono Students Canada involves law students at 311 Jarvis working with people to fill out the necessary forms. A proposal was submitted whereby students would attend at the Women's Program and work with women on their forms. However, there is currently insufficient supervision for the students from the family law bar. Duty
counsel provides the supervision and only does so at the courthouse. It was not feasible to move students out of the courthouse to provide on-site assistance.

In order to address these needs, however, women from the Women’s Program can attend with a staff member for translation to receive assistance with her forms. In the period from October through December 1999, there was very little use of this service. Catherine Bickley of Pro Bono Students Canada continues to coordinate this effort with the Women’s Program.

Closing Thoughts

As I repeatedly reviewed the data, I was struck by the clarity with which the women expressed their learning needs and strategies. While they were often not clear about the legal issues, processes or their options, most knew how they learned best and how they wanted to learn. Indeed, their ideas are not complicated or difficult to understand or to implement. Yet so few public legal education workshops or other initiatives address their needs.

Few of the studies on public legal information and education have asked participants how they want to learn (e.g. Currie 1994, Godin 1994, Law Courts 1995). They have been very content oriented and while they do address practicalities (childcare, transportation, time and location of classes), there seems to be an assumption that there is only one way to learn - materials and workshops that employ “banking” education - and that this works for everyone. The Law Courts Education Society (1994) is one notable exception to this assertion. Their 1994 study specifically sought out different learning approaches from different ethnic communities in British Columbia. As well, MacLeod
and Shin (1994) do address strategies for the distribution of information and other formats for learning.

The poverty law literature is relatively quiet on the importance of education in developing alternative legal strategies. Savage (1978) describes several projects in native communities where as a lawyer, he was teaching his clients to problem solve. American lawyer Eagly (1998) describes the development of a community education program on workplace issues that would be accessible to the Latino immigrant community in Chicago. Brustin (1993) describes the Hermanas Unidas (Sisters United) project for Latin American women in Washington, D.C., where women organized support groups to deal with legal and non-legal issues. Gordon (1995) describes the challenges of establishing the Workplace Project, a centre for Latin American workers on Long Island, New York. This small selection provides a beginning and an important source of inspiration and reflection for this project.

Throughout this study, there was an assumption that public legal education and information does not replace legal representation. That assumption remains important, but the role of education and information does increase where there is no or limited access to legal representation. In the McCamus Report, Charendoff, Leach and Levy (1997) comment on the growing problem of unrepresented or under-represented individuals as a result of legal aid and welfare cuts and other social and economic problems. They argue that, “[a] passive approach to legal education and information is less and less acceptable” and call for a proactive and creative attitude to the design and delivery of legal education (1997, 555).
At the beginning of the project when defining the problem with the Women's Program, they were adamant that the women need more representation. This is true, but as will be discussed in the following chapter, the results demonstrate how traditional legal representation has not enhanced women's learning and sense of empowerment. In some cases, the representation provided had a negative impact on the women and reinforced their feelings of inadequacy and guilt. At the end of the workshop, one of the counsellors wrote on her evaluation form, "I am realizing how much I have to learn!" For the women do not just want representation. The women really want to learn and in a way that incorporates their experiences and insights.

The development and implementation of their suggestions represent great challenges. At the same time, the findings confirm that representation is only one aspect of legal services. The needs of these Spanish speaking women who have experienced domestic abuse cannot be met through the traditional model of legal services. The excitement of these findings lies in the women's ability to design solutions to meet these needs and their enthusiasm to be part of the process.
Chapter 5

Learning about the Law

The specific goals of this study were: 1) to identify the legal education and information needs of Spanish speaking immigrant women who have experienced domestic abuse; and 2) to determine how best to address these needs with consideration for particular factors which could enhance or impede learning (the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma on learning).

In the first part of this chapter, I will discuss the findings as they relate to these two specific goals. The specific legal information needs of immigrant women who have experienced domestic abuse have been studied in Canada, but adult learning strategies to respond to the second goal of this study have not been thoroughly analyzed. This chapter will highlight the women's learning strategies.

The context for this study is the Canadian legal system and as such, it is necessary to situate the women's learning strategies in the delivery of legal services in Ontario for these women and within the context of poverty law. The study began from the premise that learning, through pedagogically appropriate education, has largely been absent in both the theory and practice of poverty law in Ontario, in Canada, and in other developed countries. Given this, the second part of this chapter includes a proposal for a new paradigm of poverty law that is client-centred and includes critical legal education.
Part I - Learning Needs and Strategies

Legal Information and Education Needs

Many studies have been completed on the legal information and education needs of a variety of groups (MacLeod and Shin 1994; Godin 1994; Currie 1994; Burtch and Reid 1994; Law Courts Education Society 1994, 1995; McDonald 1999b). Women who have experienced domestic abuse have received a great deal of attention. In some of these studies, the focus has been on how to get women to use the criminal legal system (Law Courts 1995; Miedema and Wachholz 1999). As Godin notes in her report, “Virtually all reports on the situation faced by immigrant women who are subject to wife assault call for more legal information for women” (1994, 7).

The first specific goal of this study was to identify the legal education and information needs of Spanish speaking immigrant women who have experienced domestic abuse. The results for this question support what other studies, such as those above, have found. The women asked for more materials (written and audio/visual) in Spanish. They want to know where to go when they have questions. The women identified a number of areas of law that they would like to understand better. Family law stood out clearly as the most important area. Two areas that have not been highlighted in previous studies are: understanding lawyers’ roles and responsibilities and young offenders’ law. With respect to the latter area, the women here were thinking ahead for their children, believing that education and information could play a preventative role. These results are not surprising given the nature of their legal issues. What is surprising is that the legal profession has been so slow to recognize and more importantly, respond to the overwhelming needs that have long been identified.
What was also evident is that these women do not see the criminal justice system as a viable response in most cases. Several years ago, Martin and Mosher (1995) suggested that the criminal justice system may not be the appropriate response for many women. This study did not focus in particular on the criminal justice system, or mandatory charging, but it was evident from the women that its role was marginal because they wanted it that way. In this study, there were cases where the abuse that occurred would not constitute acts deemed criminal under Canadian law. In other cases, the men have disappeared. From the women's descriptions, it seemed that the criminal justice system had been the right response in only a few cases. Years later, I suggest that Martin and Mosher's (1995) argument remains valid.

Unlike the assumptions that formed the foundation for the Law Courts Comparative Justice Project (1994; see Chapter 2, 46-48), the women who participated in this study did not speak about fearing the police. They feared immigration authorities and the possibility of deportation. None of the women, however, hesitated to call the police when they needed to reach out for assistance. This often occurred when the violence became unbearable or when their children became involved as victims or as witnesses. Their hesitation to call the police derived from a more general hesitation to seek assistance from anyone or any organization.

The criminal justice system, however, must remain a viable option for women. What the study results do suggest is that women must have access to information and places where they can request support and assistance from people they can trust. Where women are not comfortable in English or are extremely vulnerable because they do not have legal immigration status, this will likely not be government agencies, but
intermediaries such as community centres or friends. Women talked about the lack of information as contributing to their isolation, fear, and remaining in their relationships. Clear and accurate information can work to offset the many threats and lies that women are told by men in order to control them. This information must be distributed in as many ways as possible, including by word-of-mouth.

**Adult Learning Strategies**

The second specific goal of this study was to determine how best to address the women’s legal education and information needs with consideration for particular factors which could enhance or impede learning (the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma on learning). Previous studies have not addressed learning strategies (but see Law Courts Comparative Justice Project 1994) and consequently, the findings in this area (see Chapter 4, 239-247) have important implications not just for the community targetted in this study, but for other women and immigrant women who have experienced abuse and indeed, other disadvantaged groups.

Throughout the study, I have used the terms “legal education and information” as these are the terms used in practice and in the literature (see Chapter 2, 67-83). Few of the women in the study had access to any legal information or education. In analyzing the data, however, the learning that did or did not occur during the women’s experiences with the legal system was a persistent theme. From this data, we can gain understanding about the potential for learning to occur. Consequently, this section discusses the women’s informal learning experiences.
As outlined in Chapter 2 (100-102), learning occurs when the critical elements of action, or attending to the experience, and reflection are present (English 1999, Merriam and Clark 1993). Informal learning refers to how individuals learn at work and through daily interactions, which can occur on a continuum of intentionality and consciousness. In this study, with the exception of English as a Second Language classes, the women were not enrolled in formal learning institutions such as law school, college or high school. As a result, it is informal learning that is most important here.

In Chapter 2 (102), I introduce Watkins and Marsick's (1992) theory of informal learning in organizations. Although their work has an organizational focus, the seven elements they identify are useful for this study to contribute to a conceptual understanding of informal learning.

The first element Watkins and Marsick identify is experience, which often provokes change or creates an imperative to learn. As learning about the law for the women was mostly based on their experiences (though not exclusively), this first element deserves some discussion. Merriam and Clark (1993) note in an article entitled, “Learning from life experience: what makes it significant?” that no learning occurs when an experience is either too congruent or too incongruent with prior experience. The findings from their study suggests that for learning from an experience to occur: 1) it must personally affect the learner, either by resulting in an expansion of skills and abilities, sense of self, or life perspective, or by precipitating a transformation that involves the whole person; and 2) subjectively valued by the learner (i.e. the learner places a personal stamp on the experiences and recognizes the importance in her life).
For all of the women in the study, experience played a decisive role in their learning. In several situations, the police became involved and their spouses were charged with an offence(s). Such extreme changes provoked an immediate need to learn. When separation from their spouses occurred for all the women, there was a need to learn a great deal and quickly and the women did learn. They did not, however, always learn about the law. They learned what was needed for them to survive. For Celeste and Tita, this involved having to apply for social assistance because they were left with no money. For Esperanza, she learned how to earn a little money making sweaters and empanadas (meat pies) to survive because she was not eligible for social assistance. For Natalia, it meant learning everything she could about family law and her right to custody of her son. For Regina, at first it meant learning about shelters and then she had to learn about custody and amendments when she wished to take her son to visit her family in her home country.

Some fifty years ago, Rogers noted that “a person learns significantly only those things which he [she] perceives as being involved in the maintenance of, or enhancement of the structure of the self” (1951, 388). It is not surprising that for a learning experience to be significant, the learner must be personally involved. This was certainly evident from the data. The women who learned most about the law were those who were personally and actively involved in their legal processes. Out of the group, very few women did learn about the law from their previous experiences.

Merriam and Clark (1993) found that learners must undergo an expansion of skills and abilities, sense of self, or life perspective, or the experience should begin a transformation that involves the whole person. Regina is the one participant in the study
who most clearly learned a great deal from her later experiences with the legal system. She sought a change in her custody agreement that would allow her to take her son with her to her home country. With support from a counsellor at the Women’s Program and some guidance from generous lawyers and court staff, she filed her application, affidavit and supporting documents and achieved her goal. It was a frustrating process and she learned by being actively involved in the process. She contrasted this legal experience with a previous one when she sought a divorce. “I didn’t really like my lawyer, it was a him. But at that moment, I just wanted somebody to do the divorce.” She described how she was asked to sign various forms, but she did not know what they meant. During her second legal experience, Regina certainly learned through an expansion of her self. She developed skills (writing, advocacy, and understanding about the law) and certainly achieved a greater level of independence. This is noted when she finally gets her day in court and the judge asks her where her lawyer is. Regina commented to me,

*At that point, I had done so much on my own that I really thought, honey, I don’t need a lawyer. I really don’t need a lawyer. If I have the right information, people can do it on their own. I need the information and the procedures and the words and the forms.*

Merriam and Clark (1993) view an expansion of self and a transformation that involves the whole person as overlapping and being on a continuum. Cynthia provides a perfect example of someone whose experience with the legal system led to a transformation involving her whole being. While undergoing treatment at a hospital, a social worker encouraged Cynthia to speak about her marriage. This led her to the Women’s Program where she participated in support groups and had the support of a counsellor. Cynthia learned that she, as a woman and as a wife, had rights. She had never known this before and had lived much of her sixty-odd years in the belief that she had no
rights, in her home country and in Canada. She described this new understanding as experiencing a dramatic change in her entire being.

Cynthia sought a separation and is now divorced. She had been going through the negotiation of the separation agreement for the year prior to our interview. She had been able to afford a lawyer (the only woman in the group) and had many unanswered questions about the law and its implications for her. It seemed that the legal services that she received left her as confused as when she had begun the process. At the time of the interview, she was a staunch advocate of the importance of legal information and education. Her learning about her rights had provided her with such a strong, new-found belief in herself and in all women. This learning had dramatically altered the belief system with which she had grown up and lived most of her life: the belief system that women are subordinate to men and as women and as wives have no rights. The other women in the study did not achieve an expansion of their skills and abilities, sense of self or life perspective, or a transformation involving the whole person.

"Both expansion and transformation result in our having a greater capacity for dealing with subsequent life experiences" (Merriam and Clark 1993, 137). Regina certainly expressed this belief. She felt prepared to make other changes in her custody agreement and to seek child support. Cynthia had moved into her own apartment and was taking care of her needs, cautious but confident in her changes. On the other hand, there were many women who could not say what they had learned from their prior experiences. During the workshop, Wendy talked about having "gotten through" her divorce. A couple of years later, her teenage son was charged with offences under the Young Offenders Act and she felt totally confused and overwhelmed by the legal system. She noted that one
experience with the legal system does not prepare you for another because the next one might involve a totally different issue. While Wendy makes an important point about the complex and vast nature of law, she was not personally involved or active in her divorce and the agreements. She had a lawyer and during our interview she could remember very few details. She signed the forms and let the lawyer do everything. This was common for the women who had had legal representation. Perhaps if she had been an active participant in her prior legal proceedings, she would have felt less overwhelmed by those involving her son.

Merriam and Clark (1993) also found that for learning to occur from an experience, it must be subjectively valued by the learner. Again, the women’s experiences provide some interesting examples. Margarita’s spouse was charged with a number of offences by the police. She attended the Victim Witness Assistance Program, which she found very helpful and gave her a good understanding of the court process and her role. On the day of the criminal trial, she did not attend because she could not find childcare although she had been given much notice of the date. Her attitude was one of ambivalence. During the interview she noted, “So like I know he’s a bit violent, but it’s not like say, uh, physically abusive, like punching me and stuff. He’s like this when he’s drunk.” She seemed to imply that because her spouse was not “physically abusive,” criminal charges were not necessary.

She later told me that today she regrets not having attended because she wants to seek child support and sole custody of the children. The civil, family law issues were important to Margarita because they affected her and her children’s daily economic survival. The criminal charges had less relevance and less value to her and as such, it was
easy to find a reason not to attend the trial. While the Victim Witness orientation helped her, her own understanding of the criminal trial was confused as she believed that her family law issues could also be discussed during the hearing. For Margarita, while there was some expansion of her self (through some understanding of the criminal trial), she did not subjectively value the experience of the criminal justice system and hence, little or no learning occurred.

Celeste talked about how ashamed she was that her marriage had failed. In her family and in her culture, a divorce was a sign of failure. “My parents won’t help out at all – because I’m separated, divorced.” This may have been the strongest reason why she was extremely ambivalent about pursuing a divorce or other aspects of her situation. She could not value the divorce when it was such a symbol of failure. It was her ex-spouse who in the end filed the divorce petition. She did not attend the hearing.

Ana pursued a lengthy legal proceeding in her home country to gain custody of her son by her first, abusive spouse in order to bring him to Canada. Out of necessity, much of the legal work was carried out by lawyers through her parents in her home country. Yet Ana remained actively involved and her descriptions of the experience were passionate and tearful. She experienced an expansion of her self through a new life perspective on the importance of her son in her life and subjectively valued the experience and even moreso, the outcome. “Children are so important to a mother,” she told me during the interview. She learned a great deal from this legal experience because she subjectively valued it. In contrast, Margarita did not really value her spouse’s arrest and the criminal proceedings. Celeste did not value at all the divorce and those legal proceedings. Both Celeste and Margarita learned little about the law from their
experiences. These examples show us the importance of subjectively valuing the experience to the potential for learning.

Watkins and Marsick (1992) identify a second element that is important to further our understanding of informal learning. This element is the organizational context. For many of the participants in this study, the presence of the Women's Program at the Centre for Spanish Speaking Peoples provided a context that was familiar, supportive and facilitated learning for the women. In two of the situations where the women were not involved with the Women's Program, their learning about the law was limited or nil. The presence of the Women's Program did not ensure that learning about the law occurred. The Program lacks sufficient resources and a structured approach to learning about the law. As well, the context of the legal system is extremely complex with many more players such as Legal Aid workers, lawyers, judges, and court staff. The Women's Program, however, did provide sensitive, caring support and information in Spanish and often a link to the many players in the legal world.

The third element is a focus on action. This element relates to the first, the importance of the experience. For learning to occur, there must be action and reflection. For the majority of the women in the study, their experiences with the legal system involved little action. They were passive participants in their cases with the lawyers, with their counsellors often being the active participants. Regina again presents a strong example where because she was actively involved in her case (she did it herself), she learned a great deal.

The fourth element is the presence of non-routine conditions. When one thinks of the legal system in Canada or Ontario, one tends to think of a variety of players including
lawyers. Legal Aid was designed to provide legal assistance to those who could not afford it. In general, most people seek assistance when there is a problem they cannot resolve themselves. If identified as a legal problem, one may attempt to seek out a lawyer or other form of legal assistance. Due to cuts in Legal Aid and the structuring and funding of our legal clinics and duty counsel, most of the women in this study found themselves without a lawyer’s assistance at some point in their experiences with the legal system. In some places, this situation might be considered routine. It may become so here in Ontario, although advocates continue to press for increased legal representation and Legal Aid coverage has been increased somewhat since 1998. Watkins and Marsick (1992) argue that when non-routine conditions occur, this will require a change or some form of action. One such example from this study is legal representation. When the women were denied a Legal Aid certificate, they pursued solutions on their own. If they had been able to retain a lawyer, most likely the desired remedies would have been sought (e.g. child support or divorce), but with the women not being active participants in their cases, no learning would have occurred. As Gordon notes,

Furthermore, a successful experience with legal services taught the worker nothing more than reliance on legal services. The worker who benefits from the legal action has not learned the skills that she will need to fight back the next time she is exploited; instead, she has learned that she should seek out a lawyer to solve her problems (1995, 438).

There is a difficulty with this element and the example of legal representation. In several cases, when the women were denied Legal Aid, they did nothing about their situations. When Celeste’s lawyer dropped her case, Celeste dropped it also. They neither learned why they had been denied, appealed the decision or sought self-help remedies. In practice, this fourth element of non-routine conditions, requires greater refinement.
Watkins and Marsick (1992) identify the fifth element as the tacit dimension of learning. This dimension resides in context and can result in error because much is never articulated and commented on. One can think of this element as the unspoken assumptions, in this case about the legal system, the players, or the laws themselves. English (1999) could not find an application for this element to her own research. In this study, the tacit dimension of learning is extremely important because many of the women who did learn about the law never had the opportunity to discuss their understandings. What was evident throughout the interviews was that the knowledge the women had gained about the law was often inaccurate, out-of-date, or incomplete. In some cases, they had received the information from their spouses (e.g. that joint custody would be desirable). In most cases, they learned the information from friends or acquaintances who had had experiences with the legal system. Many of the women expressed their assumptions about the law, lawyers and the legal system.

I assumed the judge would be male, but she was female and very nice.

She [the lawyer] was a woman and I thought she'd understand. . .

I'm the type of person that I don't want to hurt other people. So because I didn't want to hurt him in any way, I really didn't follow the legal system.

I met a woman the other day. When she retained a lawyer, the lawyer made things better.

To go to court, you need a lawyer. You can't go to court without a lawyer.

This tacit dimension in learning about the law must be identified by anyone working in public legal education. In the Law Courts Comparative Justice Systems Project (1994, 57), the critical assumptions for the Latin American community included: people from Central America are used to operating within the informal system; few deal
with the formal legal system; the legal system operates for the wealthy; the legal system is an instrument of the oppressor; there are few human rights in Central America; the government is often your enemy; and the ordinary citizen has no trust in the system. While these assumptions were not all validated by the participants in this study, they provide another example of the importance of this tacit dimension in learning. People learn from a variety of different sources: other people, media, as well as their previous experiences. These assumptions must be examined critically and challenged if necessary in order to permit space for critical legal education to occur.

Watkins and Marsick (1992) also identify delimiters, or the limitations of the learning context, as the sixth factor. These delimiters can be viewed as the problem framing, or the naming the things to which we will attend, or the placing of limitations on our context. For example, Regina in talking about her first experience with the legal system noted, “But at that moment, I just wanted somebody to do the divorce.” There was so much else going on in her life (separation, moving into a new apartment, trying to find furniture) that she limited her learning framework to the result – a divorce. As a result, her informal learning was limited or nil. She did not learn about the family law system or the legal profession or aspects of her divorce agreement that she later wanted to change. These delimiters are important to recognize and respect in any learning context, but in particular where there has been abuse or other trauma.

This study has acknowledged from the beginning that trauma can impact learning. In Chapter 2 (103-110), I outlined many of the effects of trauma (Rundle and Ysabet-Scott 1995; Horsman 1999). For example, there can be a difficulty in beginning new things or taking risks. This includes a fear of being punished, humiliated or rejected for
making mistakes. As well, because one's sleep patterns are often disturbed, the resulting exhaustion may cause individuals to find learning draining and tiring.

During the individual interview, Natalia spoke at length about the experience of separation when her husband was charged with assault. She spoke of feeling loca, crazy and not being able to concentrate. She spoke at length about what she needed. She wanted simple, direct information. She did not want her options laid out before her or to be made aware of the uncertainty of leaving the custody of her son to a judge, someone she did not know. Her survival was dependent upon certain results (sole custody of her child, a jail sentence for her spouse). She noted that her emotional state would not have permitted learning by participating in a group to have occurred.

From the women's experiences, I have suggested that women, at the time of crisis, need individual, one-on-one support (see Chapter 4, 240-241). They are seeking uncomplicated information and simple advice. Too many options are confusing, and the lack of sure outcomes only contributes to their sense of instability and fear. We must be able to focus on more than just outcomes in any program for learning about the law. If the goal is to ensure that women will be able to get through the family legal system with less confusion, then women and program coordinators will end up frustrated. Learning may be going on as women learn to connect, to trust, and to share again. This learning must be acknowledged and valued.

This delimiter, the impact of trauma, has not been previously recognized in public legal education or in Legal Literacy (see Schuler and Rajasingham 1992). It can be seen as an impediment to learning; women cannot learn when they have been so damaged by their experiences. Recognition of the limitations required and the learning that is
accomplished will go a long way to ensuring a positive learning experience for all involved.

As opposed to seeing delimiters in a way that limits learning, they must be viewed as critical tools in framing an appropriate context. If the delimiters of the learners are respected, then greater learning will occur in the long run. If learners have a positive, but limited learning experience, they will be more likely to widen their vision to include the larger context at another instance.

The final element includes enhancers, or three aspects that enhance the effectiveness of learning, but are not essential for learning to occur. The first enhancer is proactivity, or the readiness to take action. When one allows circumstances to dictate responses, learning can occur but is rarely enhanced. In most instances, learning starts as a reaction. This is very evident from the women’s experiences in the study. Many of the women only sought child support when the provincial government required them to as a condition of receiving social assistance. They proceeded to court in response to a letter received. Celeste, who started divorce proceedings, but then abandoned them when her lawyer left her case, only followed through when her ex-spouse filed a petition for divorce.

Much of law is reactive. We come into contact with the law when there are problems to resolve, such as a marital breakdown. Where there is proactivity, learning will be enhanced. Again, Regina is a good example of the role proactivity can play. She knew that in order to take her son to her home country, she would need the court’s permission. She had been stopped at the border on a previous occasion and did not want
to repeat that scenario. She took active steps to get the court’s permission. By seeking out her objective and by being an active participant, Regina learned a great deal.

The second enhancer is critical reflexivity. This is the opportunity and ability to identify, make explicit norms, values and assumptions that are hidden. Few of the women have had this opportunity. During the interviews and particularly during the workshop, many of their assumptions were raised and discussed further or challenged by me or by other members of the group. Such an opportunity can truly enhance learning (see McDonald 1998b). The workshop provided the beginning of such an opportunity. As the women were identifying areas of law for learning purposes, they noted that they did not want to just learn rules or criteria. They also needed to understand why Legal Aid applications were rejected and what to do about it. Clearly, this critical reflexivity must be incorporated into their Derecho a Saber/Right to Know program at both the individual and collective level.

The third enhancer is creativity or the ability to think beyond the point of view one normally holds and to break out of preconceived patterns. This creativity requires time and is similar to critical reflexivity. Again, during the workshop, there was some evidence of this creativity. We were, however, limited by time. Such creativity must also be incorporated into their program.

In Sum

In sum, it is clear that for some of the women informal learning took place during their experiences with the law and the legal system. For most of the women, however, little or no learning occurred. In determining how best to address their legal information
and education needs, it is essential to incorporate the elements which contribute positively to the women’s informal learning experiences. This understanding and recognition of learning experiences, in the context of public legal education, have not been present in previous studies in this area.

While all the women had experiences with some aspect of the legal system, the level of their personal or active involvement varied considerably. The greater their active involvement, the greater their learning about the law had been. This level of action relates to Watkin and Marsick’s (1992) third element (action). This was measured during the interviews by their ability to remember details, terminology, describe the experiences and their overall understanding of the law. Prompts were used when their descriptions faltered. In many instances, women had never known what happened to their forms or what the charges had been. In other instances, they could not remember. Importantly, I am not suggesting that the women did not learn, but they often did not learn about the law. They did learn; they learned exactly what they needed to survive at that moment.

Having the support of the Women’s Program and its organizational context facilitated learning in most instances, but the legal system confused and limited women’s learning overall. Given the complexity of the legal system, the rules, the processes and the language used, it is not surprising that this context should have impeded learning. In some cases, the presence of non-routine conditions (inability to retain legal representation) facilitated learning, while in others this element seemed to diminish the learning opportunity even more. The tacit dimensions of learning about the law, or those unspoken assumptions, also played a role. Celeste believed that she was only allowed one
Legal Aid certificate and hence, never took up her case again. If this assumption had been challenged, she might have seen a more successful resolution of her divorce.

The delimiters in a given learning situation can limit learning to a narrower context. Various delimiters were evident in the women’s situations: language, access to resources, lack of information, trauma and crisis, as well as other survival needs. An understanding of these delimiters can assist in facilitating learning. As English notes in her study, adults are “capable of sorting out the priorities that have meaning and practical benefit to their lives” (1999, 392). Recognizing these priorities and respecting them will go a long way to providing a meaningful learning experience.

The last element includes proactivity, critical reflexivity and creativity, which can all enhance learning. These aspects were only evident in a few situations in the study. Watkins and Marsick’s (1992) seven elements help us to understand the women’s informal learning experiences. The women believed that learning about the law was an important goal. This understanding allows us to recognize what should be incorporated into any initiative to address the women’s legal information and education needs within the general context of the Canadian legal system, and in particular the delivery of legal services in Ontario for these women.

Part II - Poverty Law: A new paradigm with a client-centred focus that includes critical legal education

This second part of the chapter argues that in order to accommodate the women’s learning strategies to facilitate learning about the law in the delivery of legal services, a new paradigm in poverty law is required. This paradigm would give client needs and critical legal education, a specific model of legal education that incorporates the women’s
learning strategies, a central role in the conceptualization and practice of poverty law for Spanish speaking immigrant women who have experienced domestic abuse. The paradigm is developed from the specific results of this study and will be described with specific reference to the women of this study and their needs and learning strategies; it can and should, however, have a much broader application for other immigrant women and women who have experienced abuse, as well as all disadvantaged groups and poverty law in general.

**Poverty Law in Ontario**

In Chapter 2 (91-99), I described the legal services in Ontario that are available to the women who participated in this study. In order to present this new paradigm, this first section will summarize the issues of poverty law in the context of immigrant women and domestic abuse in Ontario and public legal education.

In Ontario, the *Legal Aid Act, 1967* (R.S.O. 1967, c.80) transformed legal aid in Ontario from a system dependent upon charity to a publicly funded right. The Ontario Legal Aid Plan provided those who could not afford private bar representation with a certificate that allowed them to access these legal services. The clinic movement began with the establishment of Injured Workers' Consultants and Parkdale Community Legal Services in the early seventies. Other clinics were established thereafter and in Ontario today, there are 70 community and specialty clinics across the province. The clinic model marked a dramatic shift in thinking in poverty law by recognizing that the traditional model of legal services was not adequate to address the needs of disadvantaged groups and individuals.
Legal clinics are unique in that they are located within a community, controlled by a community based board of directors and have a mandate to address the causes of poverty and other forms of injustice, not merely the symptoms. Clinics may undertake these challenges through law reform initiatives, public legal education, and community development (see McDonald 1998a, 2000). Because of this recognition and the alternative approaches used, it can be said that clinics practise poverty law, in contrast to lawyers who practise in the private bar and accept Legal Aid clients. Clinics, however, are fundamentally limited by their state funding which dictates what they can and cannot do (see Blazer 1990). In practice, education is often not a priority in contrast to individual casework (see McDonald 1998a, 2000). Another limitation that is important to this study is that most clinics in the province cannot provide family law services.

Margulies points out that domestic abuse is “almost invisible in poverty law and lawyering” (1995, 1071). The author is writing about the United States, but the same is true in Ontario because it is the private bar that has been almost exclusively responsible for criminal and family matters. In Chapter 2 (see 57-58), I outline Margulies’ argument that the neglect of domestic abuse comes from two dichotomies, both of them false. Feminist legal scholarship has more recently challenged these dichotomies and the lack of gender in poverty law scholarship in general (Schneider 1992; Crenshaw 1991; Horsburgh 1995; Meier 1993).

Margulies’ argument does not address other reasons for the absence of domestic abuse in poverty law and possible solutions. There may be several reasons for the retention of family and criminal legal services by the private bar. This study has not attempted to explore these reasons. I suggest, however, that the private bar views the
clinics as competition and potential erosion of their profit-making practices. The strength of the private bar and its lobbies has enabled them to retain a monopoly on the delivery of these services.

The private bar delivers a traditional model of legal services which focuses on individual casework resolved by litigation or often mediation between parties. The same is true for criminal legal services. The women in the study overwhelmingly identified family law issues as their main concern. Immigration and refugee issues were also identified, as well as issues concerning Legal Aid and the legal profession, and young offenders' law (criminal law). The recently enacted *Legal Services Act* reaffirms that the foundation for the delivery of family and criminal law will be through the private bar. As the *Legal Services Act* determines the framework for the newly created Legal Aid Ontario, this merely confirms the failure of policy makers and legislators to recognize the women in this study and other women who have experienced domestic abuse as part of a disadvantaged group.

In general, one can argue that to focus on the differences in a disadvantaged group risks stigma; yet to ignore the differences perpetuates the group's subordination. I suggest that Spanish speaking immigrant women (and other women and immigrant women) who have experienced domestic abuse must be recognized as a disadvantaged group. Factors such as their language, culture, immigration status, and the experiences of abuse work to create "intersectional subordination" (Crenshaw 1991) which can be perpetuated through a traditional model of legal services. Recognition of this subordination has largely been
absent in the provision of legal services and despite recent changes in Ontario in this area, continues to be absent.  

The Barbra Schlifer Commemorative Clinic has been discussed throughout this study as one exception. It provides many services for all women in Toronto who have experienced violence: legal services, individual and group support, counselling, and translation. Unfortunately, there is only one such clinic and it is located only in Toronto. The funding by the Attorney General of the Specialized Legal Services program, although short term, is a welcome addition to the paucity of legal resources for women who have experienced abuse. By funding immigration, as well as family legal services in this program, there is recognition of the specific needs of immigrant women who have experienced violence.

Other initiatives by Legal Aid Ontario include the Family Law Office. This office is serviced by staff lawyers and women (or men) are required to attain a legal aid certificate before they can receive any service. This traditional model of legal services provides one response to the real needs of women who have been abused.

Better case management and the use of paralegals in the courts, as well as an increase in the number of domestic violence courts and Victim Witness Assistance Programs are all positive developments in a province which has for the past five years been constantly cutting back funding to all areas. Again, these services do not address the underlying issues of power and control that are part of the abusive relationship and inherent in the lawyer/client or any professional/client relationship.

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5 For example, currently there are no staff in the Policy Division of Legal Aid Ontario with any background experience working in violence against women or immigrant women. (Conversation with Nye Thomas, Policy Division, Legal Aid Ontario, and Pamela Cross, Legal Director, METRAC, Toronto, March 16, 2000)
For Spanish speaking immigrant women who have experienced domestic abuse, there are several options when seeking assistance for legal problems. First, there is the private bar provides a traditional model of legal services. Legal Aid Ontario might provide coverage for a certificate and a lawyer might be found who is willing to take the case. Second, there are the clinics, which in theory provide alternatives to the traditional model and may or may not do so in practice. They, however, do not provide family legal services (with a few exceptions where there are no private bar lawyers in the region). Finally, duty counsel provides last minute assistance at the courthouse.

With more resources, such as lawyers or increased Legal Aid coverage, the immediate problems of low-income and otherwise disadvantaged individuals and groups are solved and it will appear that the state is providing substantive equality. As long as the individuals involved believe this, or as long as they are able to reap the immediate benefits, they will not feel the need for change. The tie to the state, through funding, effectively renders Legal Aid accomplice to the traditional legal system that can be oppressive and hampers the possibilities for effective change from those who would most benefit from it.

State support for legal aid works to legitimize the existing social arrangements with a “symbol of equality” (Blazer 1990, 67). If the government gives disadvantaged individuals and groups access to legal institutions, then the results reached by the system can be legitimized as being free from any systemic bias that would occur if those disadvantaged had no access at all. When cases are won and problems are solved, the legitimacy is confirmed. The case-by-case approach, even where lengthy waiting periods are involved, imposes a certain order for women and others. Thus, through the theory of
“access to justice,” the legal system and the administration of justice are legitimized and never challenged when they do not work to benefit all members of our society equally.

“Access to justice” through Public Legal Education and Information programs (see Chapter 2, 71-75) similarly provide legitimacy to the legal system. In her review of six books that provide a vision of critical pedagogy beyond the current adult education practice Phyllis Cunningham notes, “North American adult education practice is for the most part aligned to the concept of learning for earning” (1992, 180). In the area of public legal education, particularly state funded programs, I would argue that adult public legal education practices have had similar goals of ensuring that the legal system works more efficiently and effectively (see Beaufoy 1999).

Such programs have existed in Toronto with the Parent Information Sessions and in Ottawa at the Family Law Information Centres. In Ottawa, attendance at educational sessions is mandatory for anyone who has filed proceedings in family court. In Toronto, judges could, until recently order petitioners and respondents to attend the two-hour session. These educational sessions are intended for the general public, men and women, regardless of background (ethnicity, language) or history of abuse. Professionals, a lawyer and/or social worker, lead the two-hour sessions. At the Parent Information Sessions, the lawyers read out prepared scripts of family law information in a traditional, lecture style of teaching. Little time is available for questions from the attendees. This format assumes that the public, because they are not trained in law, must be passive recipients of the technical legal information they need to proceed through the legal system. It is an example of what Freire has called the “banking method” (1970).
Beginning in the eighties, the state sought to move domestic abuse from a private arena into a public one through the criminal justice system. Martin and Mosher (1995) have argued that this strategy has failed to live up to expectations of reducing violence against women and providing a better life for women and their children. Through information and learning, the previously confusing issues of family law, while remaining confidential, could move into the public arena. While any increased public legal education such as that provided by the Parent Information Sessions is a positive development, that model does not address the needs of Spanish speaking immigrant women who have experienced domestic abuse, or most likely other immigrant women who have experienced domestic abuse. Absent in the model is any recognition of different learning strategies.

During the workshop discussions, the women indicated that they wanted to understand why the law did not always work for them. They wanted to understand why they were denied a Legal Aid certificate, but their ex-spouse had legal representation. They wanted to understand why they never received child support. They wanted to discuss their experiences, learn what should or could occur in the same situation, and understand the differences. This type of critical questioning and information cannot always be delivered by representatives of state agencies, such as the Attorney General, Legal Aid Ontario, or the Family Responsibility Office which have an obligation to uphold the reputation of the administration of justice. I suggest that educational initiatives that truly address the women's issues, which are often rooted in social, political and economic inequalities, should be delivered by organizations that are able to provide a critical analysis of the law's impact on the women.
Margulies (1995) argues for a new paradigm of poverty law to incorporate the representation of domestic violence survivors. He does note that introducing domestic violence risks stigma against the poor, against children, against immigrants and against immigration in general. Conflicts of interest may also arise. For example, where a legal clinic offers legal assistance to all low-income individuals, men and women, in its catchment area, a policy prohibiting representation of batterers is problematic (see Rachin 1997). The Centre for Spanish Speaking Peoples has itself grappled with this tension in developing policy to prioritize the needs of the women who are clients of the Women’s Program.

Margulies suggests that a remedy lies in a “contextual approach” to lawyering (1995, 1092). The focus should be to build bridges between disconnected spheres in poverty law, recognize that power shifts and is not monolithic and further recognize that sometimes the power of government and/or professionals can have a positive impact. In a contextual approach to poverty lawyering, there are three core elements: access, connection and voice (Margulies 1995). Access must move beyond numbers of who receives assistance to the breadth and depth of accessibility where safety and vulnerability are the key issues, not the woman’s income level. In the workshop, the women discussed the barriers to accessing the legal system; factors such as income, language, bureaucracy, confidence in dealing with authority all played a role. Outreach is needed and there should be collaboration across disciplines.

Connection invokes an affective style of lawyering which stresses mutuality, care and empathy between lawyer and client. It also requires moving beyond the narrow parameters of the legal profession. In working with women who have experienced
domestic abuse, an understanding of other disciplines, such as psychology and sociology, is essential. Connection between lawyer and client would provide a level of emotional support which every woman in the study articulated as a primary need, but was never realized. Celeste explained her confusion when her lawyer dropped her case, "She was a bit rough, but I thought that we had a bond and were sort of friends."

The third element, voice, is a process involving dynamic relationships. A client will have many different communities, each with a different voice. It will be important for her to be able to shape an identity defined by a common realization of challenges and opportunities. For women who have experienced domestic abuse, solidarity can be difficult to achieve. In the study, at least two of the women talked about not wanting to use the services of the Women's Program because it the Spanish speaking community is small and they did not want to risk shaming their parents. The shame and stigma of the abuse often keeps the woman isolated. Another woman in the group told me that she did not want anyone in the group to ever know what had happened to her. The elements of access, connection, and voice are certainly important in a paradigm of poverty law that would include women who have experienced domestic abuse.

The results from this study suggest other important elements. Throughout the workshop, the women stressed the importance of learning from their experiences. Women's experiences have been at the centre of developing feminist theory (Schneider 1992). The knowledge the women have gained from their experiences in their relationships involves concrete survival strategies (such as how to placate the spouse or where the closest food bank is). Some, but not all, of their previously unexamined assumptions (such as the judge would be male) were also challenged through their legal
experiences. It is important to link women with others to examine this knowledge with the goals of further challenging assumptions and broadening their reservoir of strategies. Such knowledge must be valued as important as, for example, the legal options upon separation.

Further, the women stressed the importance of their participation in any program to address their needs (Chapter 4, 246-247). Their participation has not been facilitated by the legal system currently in place. In general, the participation of the disadvantaged has been limited or nonexistent in our capitalist, democratic society (Margulies 1995, 1101). Race, culture, language, and resource deprivation pose challenges to full participation in many different communities in Toronto.

Margulies argues that a commitment to access, connection, and voice can facilitate the integration of domestic violence into the practice of poverty law (1995, 1004). In this final part, I am proposing a different paradigm, a further development. Margulies (1995) validates the knowledge gained from women’s experience (through consciousness raising groups). However, he fails to acknowledge the importance of learning strategies and the role these strategies can play in learning about the law for immigrant women, and other women, who have experienced domestic abuse. As with most poverty law literature (see Chapter 2, but see Lopez 1992; Gordon 1995; Brustin 1993; Eagly 1998), learning plays little role in poverty law theory or in practice.

While addressing issues in the lawyer/client relationship is important, adopting new styles of lawyering or client interaction does not fundamentally alter the role of the lawyer in the provision of legal representation. Margulies’ (1995) paradigm for domestic violence survivors again focuses on the role of the lawyer in a poverty law practice. This
focus on lawyering and legal representation reinforces the role of lawyers as significant players in the legal system.

A client-centred approach to lawyering is not a new concept in poverty law scholarship and practice, but this paradigm has narrowly focused on legal representation. The theory and work initially evolved from Carl Rogers, a therapist (1951). A client-centred approach attained a general acceptance in American law schools by the early eighties through the work by Binder and Price, *Legal Interviewing and Counselling: A Client-Centered Approach* (1977). Client-centered representation implies that lawyers should work with clients in a manner which allows clients to make their own decisions (Mitchell 1999, 98).

As I outlined in some detail in Chapter 2 (50-57), the lawyer/client relationship has become the main focus of critique in the "new poverty law scholarship." I suggest that in order to truly alter the power imbalance inherent in the lawyer/client (or any professional/client) relationship, there must be a focus on the role of the clients and their needs that moves beyond the traditional parameters of legal representation. As in the "new poverty law scholarship," the liberation that might occur in the lawyer/client relationship through client-centered representation is a limited liberation indeed. Mitchell (1999) provides a stark description of the contradictions that present themselves when client-centered representation is put into practice. In the next section, I propose a new paradigm of poverty law that is built upon the results of this study. Through the feminist participatory research methodology employed, the women in this study were able to engage in participatory learning about their needs and how best to address these needs, with a focus on their learning strategies. In this proposed paradigm, clients will have a
central role in their legal experiences. This is facilitated by their own understanding of their needs, their learning how to address these needs, and critical legal education.

While the roles of lawyers and other professionals who will work with these women and others remain important, this paradigm shifts the focus to the women’s legal information and education needs. This different focus is important for three reasons. First of all, this focus is important because it acknowledges that the women themselves are and should be active players in their legal experiences. As Lopez notes, “subordinated people can and should claim expertise in the culture in which they, the law, and their difficulties co-exist” (1992, 50). This can be difficult where there are no mechanisms in place to ensure that it occurs within a relationship that has been traditionally dominated by the omniscient lawyer.

Second, this client-centred focus fulfils one purpose of feminist participatory research: to create changes in power in favour of disadvantaged groups. That change in power can be measured by the degree to which members of a group increase their options for concrete actions, their autonomy in using these options and their capacity to deliberate about choices for action (Conchelos 1983, 335-36). Already the women have increased their options by having participated and having the opportunity to continue to participate. The extent of that increase is still to be determined.

One could argue that additional Legal Aid funding for family law lawyers would increase the women’s options. As well, most studies and submissions have called for an increase in the availability of legal information. This is true, but these options (of actually having legal representation or a pamphlet that explains your rights in your native language) are limited (as legal remedies are themselves limited). The women indicated
that in many cases, they did not deliberate their choices for action, but rather allowed their lawyer or counsellor to choose one course over another. One could question whether with greater legal representation there would be any increase in the women’s autonomy or in their capacity to deliberate these options.

Third, this client-centred focus acknowledges the limitations of our state funded legal aid system in Ontario. The practice of law is a business and as long as the delivery of family law services remains in the domain of the private bar, the economics of doing business will fundamentally dictate a lawyer’s ability to respond adequately to a client’s needs. Even within the legal clinic system, where public legal education is part of the mandate, the importance of individual representation through summary advice and casework is emphasized by the quarterly reporting requirements. In my final remarks in my Masters thesis, I suggest that neither the lawyers working in the clinic model, nor those in Legal Aid private practice are ideally situated to incorporate a paradigm such as this proposed paradigm into their practice (McDonald 1998a, 108).

**Integral Components: Client Needs and Critical Legal Education**

This proposed paradigm is built upon the results of this study where the women’s learning strategies were central. I suggest that in order to incorporate the women’s learning strategies into the delivery of legal services, a new paradigm of poverty law is necessary. This paradigm includes a central understanding of clients’ needs and critical legal education. This section will summarize these critical components.

In general, critical pedagogy refers to educational practice that critically informs, challenges and engages people in the creation and re-creation of knowledge. It involves: 1) social consciousness, 2) imagination, and 3) dialogue (defined as critical
communication process rooted in a horizontal relationship of people) (Cunningham 1992). The term “critical legal education,” referring to public legal education (versus education of law students), is not present in the literature that is available (see Chapter 2, 68-84). Indeed, it was used by members of my committee, in particular Daniel Schugurensky. While the term itself has not been used, the idea of critical legal education is present in some poverty law scholarship and in work on Legal Literacy (Schuler and Rajasingham 1992).

In the poverty law scholarship, Lopez discusses education, of both client and lawyer, in his ideal of rebellious lawyering (see Chapter 2 in general, 65-67; 1992, 70-74). He refers to it as “teaching self-help and lawyering” which he notes are not novel ideas.

Such teaching entails the participation of lawyers in helping everyone (themselves included) to see that the skills they have already developed to cope with problems in everyday life can be used to solve less familiar problems – that their stock of stories and storytelling techniques may be extended beyond the world they know best. In particular, if people subordinated by political and social life can learn to recognize and value and extend their own problem-solving know-how, they (and others, not coincidentally) may gain confidence in their ability to handle situations that they would otherwise experience as utterly foreign and unmanageable, with or without a lawyer as representative (Lopez 1992, 70).

Lopez’s work focuses on the reorientation of a lawyer’s practice and as such, he confines himself to the structural limitations of a legal services office. He acknowledges the limitations of education in this context for lawyers (1992, 71-72): the lack of training in appropriate pedagogy, law school training which negates this mode of practice, the immediacy of clients’ needs, the lack of professional support (from co-workers and in the bar), time and resources, and the blurring of boundaries and responsibilities.
Lopez does not acknowledge different learning strategies in his discussion of education. As well, in the paradigm of poverty law being proposed herein, there is a much smaller focus on the lawyers’ role. The focus instead is on the clients’ legal needs and how to address them using their learning strategies through a model of critical legal education. The client plays a central role from the beginning to define her/his needs and how best to address them. As noted, this paradigm is built upon the learning strategies of the women who participated in this particular study and future references are made to their particular learning needs and strategies. The paradigm can and should, however, have broader applications for other disadvantaged groups in our society.

The idea of critical legal education is also present in Legal Literacy, which is defined as “the process of acquiring critical awareness about rights and law, the ability to assert rights, and the capacity to mobilize for change” (Schuler and Rajasingham 1992, 2). Legal Literacy, as a concept, is limited by its application only in developing countries and only to women’s issues. While the context may be different in Toronto, Canada, the definition of Legal Literacy as a process provides a comprehensive vision of an alternative approach to the law and lawyering.

What was evident from this study was the strength and clarity of the women’s voices as they articulated what they wanted to learn, their learning strategies, and their desire to be active participants in their learning. Their needs are present in a developed country, in a province with a sophisticated legal aid system, but one that is not capable of addressing these needs. There is a need to recognize the importance and potential of learning strategies in poverty law theory and practice.
During the workshop, the women, working and learning together, articulated the practical terms as the women designed their *Derecho a Saber/Right to Know* program. Some of the details require further discussion with the women and this discussion will continue.

The goal of the *Derecho a Saber/Right to Know* program at this point in time is simple: to provide legal information, and the opportunity to question and discuss that information, to Spanish speaking women who have experienced domestic abuse and to facilitate women’s experiences with the legal system. At the present, the program does not include other alternative strategies such as mobilization, lobbying, or law reform. Nor does the program include broader goals such as social change, a focus on self-reliance, or the challenging of the state. Educational practice alone may not be the source of progressive social change, but the women themselves stressed the importance of information and understanding as a first step and critical starting point. Further action may develop from the various components of the program. As Smart suggests, we must “think of non-legal strategies and to discourage a resort to law as if it holds the key to unlock women’s oppression” (1989, 5). It will be the women themselves, however, who decide what and when further action, legal or non-legal, is appropriate.

The first component that is essential for this paradigm is an understanding of the women’s needs (or in general, the clients’ or group’s needs) and how best to address these needs. There are a number of quantitative and qualitative methods to determine needs: questionnaires, focus groups, interviews (structured, semi-structured, open). As has been previously discussed, this study employed a feminist participatory research methodology in order to facilitate the women’s participation. Given the power imbalance
inherent in abusive relationships and many other relationships between subordinated groups and professionals (such as lawyer/clients), feminist participatory research presents an opportunity to address this imbalance. While feminist participatory research is resource intensive and presents its own challenges (see Chapter 3), its use will ensure a client-centred focus. Feminist participatory research also employs participatory learning techniques as part of its collective inquiry. The women who agreed to participate in this study and project have been engaged in a process that began with their individual interviews and moved into a collective data collection phase. Understanding their own needs and those of other Spanish speaking women who have experienced domestic abuse is critical to the problem solving inherent in understanding the nature of the law and legal system (see Lopez generally 1992). As well, the partners in the project, the researchers and counsellors, have also gained insight into the pressing needs for the women.

During the individual interviews, the women articulated their strategies for learning (see Chapter 4, 240-247). These strategies were translated into practical solutions to address their legal education and information needs. The women stressed the importance of structure and an organizational context to their learning, both collective and individual needs, appropriate pedagogical techniques, support, trust, participation and learning from experience.

Learning about the law was limited for many of the participants. The women who participated all spoke about the importance of structure and facilitation to assist their learning. This is understandable given how we have been taught through schools most of our lives. It is also understandable given the uncertainty and upheaval that many of these women have experienced upon separation from their spouses. Further, given the
mystification and complexity surrounding family law and the legal system in Ontario, the lack of English as a first language, and other demands upon their time, assisted learning is far more appealing to many.

The women who participated in the Victim Witness Assistance Program praised it. This supports the importance of facilitated learning and suggests that there is a role for government agencies. The women, however, did indicate that they felt more comfortable learning from friends or counsellors who spoke their own language. This finding is consistent with other studies (MacLeod and Shin 1994). The *Derecho a Saber/Right to Know* program would work under the auspice of the Women's Program, which would lend organizational support, credibility, and as such assist with searches for funding. Any effective strategy must be designed and implemented with and by the community it seeks to reach. This was extremely clear from the study wherein the insights provided by the staff of the Women's Program were invaluable in the research process. As well, it would facilitate access for the women to other services offered by the Centre and the Women's Program. Further, this structure and organizational support provide a context for the learning. As such, the women suggested *talleres* (workshops) consisting of small groups of women who would come together to learn about the law. These workshops would not be recommended to a woman who was in crisis as the women themselves indicated that at the time of crisis, they wanted individual support and counselling.

We know from the data that there were several factors that limited the women's learning. These included: their lack of personal or active involvement in their legal experiences, the impact of trauma on learning, as well as the traditional model of legal services that does not emphasize client learning. There were also factors that enhanced
the women's learning from their legal experiences. These included: personal or active involvement in their experiences, a transformation of their being from the experience, and a subjective valuing of the experience because of its importance to the woman's survival. As well, proactivity, critical reflexivity and creativity all can enhance learning. These factors must be incorporated into the workshops and other components of the *Derecho a Saber/Right to Know* program.

During the workshops, women will be able to learn basic legal information about a variety of topics. The women understood and accepted the importance of their knowledge. The women themselves through their experiences have become expert problem-solvers from their everyday efforts to survive. Their unappreciated skills must be acknowledged: their alertness to others, their attention to emerging patterns of behaviour, their attention to needs. The women in reality can teach us what it means to have a "feel" for a situation (Lopez 1992, 60).

The women, however, also recognized that their knowledge was not enough. The women must work with educators and others in the legal profession to develop their program. These educators, lawyers, and other professionals must be aware of and indicate the values that they bring to the teacher/learner relationship. Women who have already had similar experiences (with negotiating a custody agreement for example) will participate in the workshops to ensure that women's experiences form the basis for learning. Critical legal education becomes important in these structured settings. I define critical legal education as "a learning process that incorporates critical pedagogy to understand individual and collective needs and how to address those needs through legal and/or non-legal strategies."
Freirean and feminist pedagogical theories and methods are important to critical legal education as both incorporate the learners’ experiences and give the learner a central, participatory role. Both also have social change as a goal, although this goal has not been specified by the women. There is the danger, however, of reducing Freirian insights into a methodology or another technology.

Freire advocates a form of learning in which the educator and the students share equally in a learning process that involves a common search for truth about issues facing them. This is in sharp contrast to “banking” education where passive learners receive deposits of pre-selected, ready-made knowledge, which is so evident in many public legal education programs (see for example Gordon 1995; McDonald 1998a). The Parent Information Sessions are an example of this. Codifications, which are representations of the learner’s daily situations, will be used to provoke responses. Dialogue, to analyze reality and the “people’s knowledge,” will also be used as the basis of the curriculum (Freire 1970). The women specifically requested that their experiences become part of their learning process. They placed a great value on learning from other women’s experiences, or the “people’s knowledge.”

Freire (1970) bases his work on collegiality, the equal participation of all members. The structure of the learning environment must break away from the hierarchical and controlling structure often implicit in professional/client relationships, whether that is teacher/student, lawyer/client, or any other. However, in this context, learning about the law, the professional, who invariably possesses more knowledge, has an important role to play as facilitator, supporter, and educator.

Freire suggests three stages in moving toward critical consciousness, which is
characterized by the ability to interpret problems, being open to new ideas without rejecting the old, and analyzing preconceived notions. Critical consciousness is a learning process, not just for the participants but also for the professionals who must learn to identify the difficulties in their traditional delivery of legal services and their manner of viewing the poor, the disabled, women, and minorities. The learning must further take into consideration economic, political and social perceptions to understand the contradictions inherent in any conflict.

This suggests that while learning about the law will be the central theme of the Derecho a Saber/Right to Know program, the participants, both lawyers, educators and others, must recognize that the law is limited in its application. It may not be able to resolve the women's most immediate concerns. We know that “…law is not necessarily better able than other remedial cultures (formal and informal) to respond meaningfully to any particular problem” (Lopez 1992, 56, emphasis in original).

Information giving is a critical aspect all of models of public legal education, for without this information, one cannot even begin to feel equal to or challenge those who have greater power, such as their ex-spouses. The women indicated that they want to learn not only legal information and the technical rules, but to they want to learn how to challenge assumptions that may underlie these rules.

Importantly, lawyers are not only trained in legal rules, but they learn to think like lawyers. In law school and in practice, they learn more than technical rules that are unilaterally applied to all situations. Students and lawyers also learn how to exercise judgement when they encounter new experiences that do not fit the rules. This background learning is important and must be worked into any workshop. Thus, the
workshop cannot merely consist of the transmission of legal information and rules through traditional didactic techniques. It must become a forum for learning through participation and dialogue. In a critical legal education initiative, legal information and rules must be placed in context in order to enable us to understand their inherent limitations and potential for the women.

In dealing with legal rules and information, feminist pedagogy is insightful. Particular feminist methods or techniques may be employed in the development of curriculum for the program. One method is to ask the "women questions," such as, how does this law affect us as women? Who wrote this law? How does it reflect our day to day lives or does it work to disadvantage us? These questions are important because they highlight the gender bias inherent in the law and in practices whose objectivity has never been questioned before (Bartlett 1990, 837). Freire revised his own early position that did not recognize multiple oppressions to stress that:

...we must not lose sight of the need to recognize multiple construction of power and authority in a society driven by inequalities of power and exclusionary divisions of privilege and how these are implicated in the constitution of subjectivity differentiated by race, class and sexual preference. (1993b, x-xi)

To understand the multiple oppressions of women, similar questions can be used to reflect the class, race or other biases (heterosexism, ableism, etc.) inherent in the law. Matsuda (1991) calls this "asking the other question" (or questions) which could be, "Where’s the racism in this?” These questions will be part of any workshop and will provide the framework for a critical understanding of the law and its implications for the Spanish speaking women of the Derecho a Saber/Right to Know program.

In asking such questions, feminist practical reasoning would be employed. This
reasoning focuses on the identification and consideration of the perspectives of those excluded. Any problem will have many perspectives, as well as contradictions and inconsistencies that call for creative responses (Bartlett 1990, 851). While not rejecting legal rules, the rules hopefully will allow room for new ideas.

Consciousness raising is a crucial element in working with disadvantaged individuals and groups and in all empowerment struggles (Bartlett 1990, 864). Schneider describes this process:

In consciousness raising groups, learning starts with the individual and personal (the private), moves to the general and social (the public), and then reflects back on itself with heightened consciousness through this shared group process. Consciousness raising as a feminist method is a form of praxis because it transcends the theory and practice dichotomy. Consciousness raising groups start with personal and concrete experience, integrate this experience into theory, and then, in effect reshape theory based upon experience and experience based upon theory (1986, 602).

Alfieri defines the goal of poverty law as "empowerment" (1988, 668). His work and that of other poverty law scholars, however, remains rooted in traditional lawyer/client relationships through legal representation. Empowerment is a process that involves oneself and others. Schuler and Rajasingham see empowerment as an integral component of Legal Literacy and offer a definition wherein “...empowerment could be viewed as a process for acquiring the psychological and social capacities needed to effect changes in [social] relations” (1992, 40). They acknowledge both the individual and collective dimensions of empowerment and suggest that empowerment does lead to results.

Cynthia certainly experienced a feeling of empowerment on an individual level when she understood that she as a wife and as a woman had rights. During the workshop, one woman argued that any taller should contain some component to help the women
develop their self-esteem. She noted that while having this legal information is important, many women do not have the confidence to act upon it.

Despite changes in lawyering, the isolation inherent in a lawyer/client relationship based upon individual casework cannot lead to empowerment. Lopez notes that “existing practices too often isolate lawyer and client from other problem-solvers” (1992, 55). Affective lawyering or altering one’s lawyering style to provide connection with the client is not sufficient. Margulies acknowledges this and suggests that the lawyer has a professional responsibility to “involve the client with peer groups to facilitate this process” (1995, 1100). Rule 3 of the Law Society’s Code of Professional Conduct states, “The lawyer must be both honest and candid when advising clients.” (1995) It is further noted in the Commentary:

2. Whenever it becomes apparent that the client has misunderstood or misconceived what is really involved, the lawyer should explain as well as advise, so that the client is informed of the true position and fairly advised about the real issues or questions involved.

A broad interpretation of this rule suggests that a client to be “informed of the true position and fairly advised about the real issues or questions involved” would require the opportunity to discuss her situation with others who have had similar experiences or at the least, to engage in an open debate in her native language about the “real issues or questions.” According to the women interviewed, this did not occur in the lawyer’s office. In many instances, it occurred between the counsellor and the woman either before or after meeting with the lawyer. The vast majority of the women indicated that they would have liked to have had the opportunity to talk to other women about their experiences. As outlined in Chapter 4 (240-242), the exception to this was when women were in crisis.
Margulies sees the lawyer's responsibility as being one of referral to the appropriate services (1995, 1100). The Women's Program already offers a number of support groups on a variety of themes for women. These will continue and provide a collective forum for women to gain and give support. Brustin (1993), however, argues for an expansion of the lawyer's responsibility to be part of peer support and consciousness raising groups where legal issues may not always present. She acknowledges the criticism that many do not view such work as real legal work. Given scarce resources, there will often exist tension about the best use of a lawyer's time.

Because of their specialized training and experiences, lawyers will always retain an important role in legal concerns. There has been significant work examining the role of the poverty lawyer (see Lopez 1992 for example) and there is a need for lawyers to reorient their practices and styles of lawyering so that they can be positive agents for women who have experienced domestic abuse. They must understand that critical legal education can be instrumental in altering relationships of power. In order to challenge the power imbalance, it will be necessary to be an active participant in a number of activities that are "territory typically thought beneath and beyond them" (Lopez 1992, 77).

Throughout the study, there has been a recognition of the dynamic between individual and collective needs and learning, particularly given the abuse many of the women have experienced. Individual interviews were used to facilitate the development of trust and to understand fully the particularities of each woman's experiences. The individual data collection moved into the collective format of the workshop where the women had the opportunity to learn about others' experiences and work together on

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6 New Rules will be coming out in 2000.
designing solutions to address their needs. Their solutions take into consideration this uneasy tension between individual and collective needs and learning.

The women articulated the importance of learning together. In a recent article, Kilgore (1999) proposes a theory of collective learning, in which taken-as-shared meanings are constructed and acted upon by the group. She refers specifically to the relationship between individuals and group development as they address social justice issues. She argues that we need a concept of the group as a learner and constructor of knowledge. The group certainly was responsible for the construction of the program during the workshop. During the individual interviews, many of the women had difficulty articulating how they wanted to learn. It was when they were able to talk together and learn from one another, that they began to clearly articulate their learning strategies.

Collective social action is not necessarily the result of individual critical reflection (Kilgore 1999). Kilgore (1999) defines collective social action as a group challenge to existing material, cultural or psychological conditions in society. In many instances, friends are recruited by friends, as has occurred for the group. Today, the group, which is in its early days of formation, probably does not have a sense of its potential. Group members focused on the importance of learning and did not discuss social change as a goal. One of the counsellors addressed the need to lobby for change. The women may indeed choose to mobilize further and lobby for changes in Legal Aid or family laws, but this will be a decision made by them.

Collective learning and support was central to addressing the women’s needs. In times of crisis, however, such an approach was considerate inappropriate and workshops would not be recommended. At these times, the women requested individual counselling,
information and support and this would be available to facilitate her learning and attend to her immediate needs.

As well, many of the women had individual legal needs that needed attention and were particular to their particular circumstances. These individual needs often require urgent attention and intensive support from the staff of the Women’s Program. Bartlett (1990) acknowledges that individual rights and needs must also be addressed as the women did.

Learning about the law through a critical legal education model will not necessary resolve the immediate legal needs of the women. Learning can help address systemic barriers to equality and social change, as well as prevention, the results of which are never immediate and often cannot be evaluated. In poverty law, there will always exist this tension between the long term rewards and the immediate benefits. As discussed in Chapter 2 (119), Tremblay (1992, 956) refers to this tension as the “deferral thesis” which is a recurring debate in poverty law and other disciplines. I suggest that long term and immediate benefits are not mutually exclusive. The goal is to work towards an integrated approach to delivering legal services, which would incorporate access to traditional legal remedies as well as a central role for learning.

The women’s solutions reflected the need for an integrated approach. The women articulated a number of solutions to address their individual needs and the needs of other women in their community. The most important of these is the suggestion of peer supporters who will be trained in basic legal information about several areas of law (family, immigration, young offenders law for example). They will also receive training in woman abuse. In order to keep information up-to-date, women will be expected to
attend a refresher training course to be held at a variety of intervals. New clients to the program can ask for a peer supporter. The role of the peer supporters will be to provide support. They will not replace legal representation or a counsellor. They will provide extra support, a woman who can respond to basic legal questions and provide the emotional and practical support needed as a woman goes through the system. This support will be provided on an individual basis and through it, women can begin to develop relationships of trust.

Spanish speaking immigrant women who have experienced domestic abuse, and other women who have experienced domestic abuse, can be extremely isolated with no contacts or opportunities to develop trusting relationships, particularly where language and cultural barriers may exist. Reaching these women with basic information about their rights and other responses to their situations is very important. Much of the legal information women had obtained was from friends or acquaintances in the community. “Clients go to friends for counsel, even after seeing a lawyer, often to ask about what a lawyer has said” (Lopez 1992, 55). By providing the women participants themselves with accurate, up-to-date information as peer supporters or women’s advocates, there is a greater chance that this information will reach other women in the community. The women spoke repeatedly about the importance of word-of-mouth communication. Other studies also support the idea that having the information in the community is the most effective way of distributing critical legal information (MacLeod and Shin 1994; McDonald 1999b).

Other suggestions made by the women that can address individual learning and other individual needs included: more materials on more topics in Spanish, a lawyers’
directory, and of course, increased representation. The lawyers' directory would provide women with information about the lawyer that they might wish to retain. By reading a profile of the lawyer, women would be able to make an informed choice about legal representation. These solutions are only a few that could be offered to address individual needs.

The suggestions for talleres and peer support made by the women demonstrate their understanding of their learning needs and their ability to design initiatives to address those needs. The talleres address their need for collective inquiry, participation, and dialogue. Through the talleres, the women will be able to compare and contrast their experiences with those of others and with what should happen in the legal system. As well, this collective framework will assist in reducing the isolation and shame that women who have experienced domestic abuse often feel. The peer support program addresses individual needs, particularly the need to develop relationships of trust. We know that trauma can impair one's ability to trust (see Chapter 2, 103-110) and this can limit other learning. The goal of the peer support program is to provide individual support and important, timely information and resources to the woman in need. These two initiatives address very different, but equally important needs for the women – individual and collective learning needs. By understanding their own learning strategies, the women were able to design such initiatives to incorporate these strategies and ensure that their learning is maximized.

In sum, this study used feminist participatory research to facilitate the women's participation and their learning and understanding about their legal education and information needs. Through the individual inquiry technique, the interviews, the women
were able to articulate their best learning strategies based upon their own experiences and knowledge. Through the collective inquiry technique, the workshop, the women worked together to translate these learning strategies into concrete proposals for action.

The context of this study is the Canadian legal system in Ontario and I have suggested that the current model of legal services for these women is not adequate. I have proposed a new paradigm of poverty law with a client-centred focus through critical legal education. The paradigm emphasizes the importance of understanding the clients’ needs and responses to address those needs. Feminist participatory research is one method which will facilitate a client-centred focus in determining needs and responses. It is the method this study used and while it has its limitations and challenges, it proved effective in facilitating the women’s participation.

Once there is an understanding of needs, which may change over time, there are several components which should be included in a critical legal education program. Organization support and context lend legitimacy and a framework to the learning during what may be a time of upheaval and uncertainty for many women. A structured approach to learning is also important. In this study, the women suggested the use of workshops (talleres), small groups of women who would come together to learn. There are several factors which impede and enhance learning which must be incorporated into the learning process. This process can be facilitated through the use of appropriate pedagogical techniques, such as those used in Freirian or feminist pedagogies. Such learning can lead to empowerment and perhaps mobilization, although the women themselves will have to decide upon their broader and longer term goals. As well, this paradigm must acknowledge individual needs and address them. The Derecho a Saber/Right to Know
program suggested a peer support program, which would again facilitate the women’s participation, increase access and outreach, and develop relationships of trust.

For my master’s thesis, one community legal worker from a legal clinic noted, “Part of education is creating trust and then fostering the relationship between the clinic and the community by the gratuitous gift of the education, by the sharing of the knowledge” (McDonald 1998a, 124). This worker was focusing on the role of the clinics. This proposed paradigm shifts that focus to the client in the belief that active participation is key to addressing the power imbalance inherent in professional/client relationships. The women know that they learn best when they are active participants in their legal experiences. That active participation can be facilitated by learning through critical legal education, “a learning process that incorporates critical pedagogy to understand individual and collective needs and how to address those needs through legal or non-legal strategies.”
Chapter 6

Answering Questions, Asking More

The purpose of this study has been to explore the use of pedagogically appropriate education and learning strategies in the delivery of legal services for Spanish speaking immigrant women who have experienced domestic abuse. The use of feminist participatory research facilitated the women’s participation in understand their learning strategies to address their legal information needs.

This study draws together many diverse issues: domestic abuse, immigrant women, learning and public legal education, the impact of trauma on learning, poverty law and the delivery of legal services in Ontario. As Chapter 4 demonstrates, the findings from the data collection, both the individual interviews and the collective workshop, are rich and these concluding remarks could address any or all of the issues. Chapter 5, however, reflects the focus of this study - the women’s learning strategies.

This chapter begins with concluding remarks on feminist participatory research, which played an integral role in facilitating the women’s understanding of their learning strategies. I will then briefly discuss the women and their experiences with abuse, offer some thoughts on the central role of learning, and suggest next steps for the project. The chapter concludes with final remarks.

The development and the implementation of the women’s learning strategies are ongoing. As noted in Chapter 1, this action component of this project is not discussed in this dissertation and as such, the broader goals that could be achieved through social action of this nature have not been achieved. This dissertation has attempted to retain the importance of those broader goals by including references to them and envisioning a
broader agenda, while reporting upon only the narrow objectives. While this has created some tension in the text, the reader is asked to remind her/himself of the potential and broad possibilities for social change, for empowerment, and for challenges to existing power structures that can come through the collective action inherent in feminist participatory research.

This study specifically contributes a clear understanding of the women’s legal information and education needs, and learning strategies to address those needs within the context of the delivery of legal services in Ontario. These specific findings and the methodology, can be used by other groups of women, particularly immigrant women, who have experienced domestic abuse. The new paradigm for poverty law, proposed in the previous chapter, is developed from this study’s findings and importantly, incorporates domestic abuse and gender into poverty law. It can and should, however, have a broader application for other disadvantaged groups.

Feminist Participatory Research

As I noted in the concluding remarks of Chapter 3, many of the goals of feminist participatory research were not completed in the first phase of this study. Given the long term nature of participatory research, this is understandable; however, many questions remain unanswered for this particular study. These include issues around the role of the researcher and the tensions that result from the university/community relationship.

Maguire (1987, 200-208, see Chapter 3, 130-131) provided a framework for feminist participatory research and analyzed her own research based upon this framework. Maguire’s work occupies a central place in the development of feminist
participatory research and some of her principles are worth referring to at this time. In particular, Maguire suggests that explicit attention should be paid to gender issues at each phase of a project.

Overall, gender had a central place in the literature review, the fieldwork, and the action that has come and will come out of the research. Given that the participants were all women, all attention was paid to them. During the first phase (gathering and analyzing information about the project area), there was a focus on how women, and in particular Spanish speaking immigrant women, experience the Canadian legal system. The literature reviewed considered the implications for their partners, who are alleged to have committed assault and may come into contact with the criminal justice system, and the tension this may create for immigrant women.

During the data collection, attention was paid to the different experiences the men and women had (albeit from the women’s perspectives only) with the legal system, both accessing it and their knowledge of it. For example, in most cases the men had greater English skills and general or specific understanding of the applicable laws. In some cases, the men had legal representation where the women did not. The women’s concerns were different from the men’s: safety, custody of the children, child support.

During the workshop, however, the women themselves decided that there would be areas of the law and certain settings where Spanish speaking men and women should learn together. The most important example was in the learning about young offenders’ law. The women believed that all parents should understand their rights and the rights of their children. As well, the women believed that any legal content in English as a Second Language (ESL) classes should be directed at both men and women as this orientation to
Canadian law is important for all newcomers. They stressed that men need to learn that domestic abuse is against the law and the consequences that follow from the perpetration of abuse.

During individual interviews, women certainly reflected on their role as mothers and wives and the role of men in their culture and what that meant for them today. They made few linkages, however, between their problems and patriarchy or a broader conceptualization of power. During the workshop, as the women talked amongst themselves and had the opportunity to discuss their problems, more linkages were made, particularly during discussions of child support. There was, however, less analysis than could have been forthcoming given the richness of the discussions. Issues of class and race, as well as immigration status and language, combine with gender issues to create multiple oppressions in our society. The women in general were not making linkages to the multiple causes of their named problems. This was due to lack of time and certainly could be a goal for future work if the women so desire.

Women played central roles in the workshop, which used a problem-posing format. The use of small groups permitted those women who were quieter and less likely to speak to contribute their experiences. Although the facilitation of the workshop (and leadership for the retreat and project itself) remained in my hands, all the women did participate equally. In the long term, the objective of the project is to transfer this control to the women themselves.

The project was only open to women participants. Women needed to have the time to commit to the project and for some, this was not possible. As well, the limitations on confidentiality may have resulted in self-selection. In most cases, women were in
receipt of social assistance and not working and were thus able to participate. By covering all childcare, food, transportation and accommodation costs, it was intended that these costs would not keep women from participating.

The project focused on a very specific group. As such, the participants were all women and from only one immigrant community in Toronto. The participants themselves, however, were from diverse backgrounds in terms of country of origin, class, race, and education levels. The staff from the Women’s Centre are all originally from Latin American countries. I was the exception to this composition as a professional white woman from Canada. As the principal researcher, I was very aware of the difference and possible hierarchy this created in my relationships with the participants and members of the team. The disadvantages and advantages of this situation have been discussed at greater length in Chapter 3. While language errors and misunderstandings did arise, the insights from the staff proved in general that the composition was successful.

Finally, attention was also paid to gender in language usage during the project. Spanish is a language with gendered grammatical forms. In writing and speaking, all participants were encouraged to use both male and female forms (e.g. abogado/abogada, a male lawyer/a female lawyer).

In sum, attention was paid to gender during all phases of the research. The focus of Maguire’s (1987) framework of analysis is the inclusion of gender. Maguire does ask specific questions which would be helpful had men also participated in the project. Ultimately, however, her framework is limited. It fails to address the very real challenges that arose during this research. In particular, two fundamental areas stand out: self-
disclosure and leadership. Both of these areas relate to the role of the researcher in feminist participatory research.

The role of the researcher, who also becomes an educator, activist, and organizer during the research process, is critical to the potential of feminist participatory research. This role obviously places great demands on the researcher, but most authors (for example Maguire 1987, 1993; Park et al. 1993) are silent as to the contradictions inherent in these demands with a feminist framework of research.

As noted, while the problem ideally comes from the community, more often the community is approached by the researcher. This occurred with this project. I certainly responded to the demands for leadership and played (and continue to play) many roles as a researcher, educator, and organizer. For a feminist researcher who brings care, commitment and complete immersion to the project, these demands may prove to be overwhelming. The result is a persistent tension within the researcher about fulfilling commitments to the project and caring for her own needs.

Greater participation and leadership from more of the team members might have reduced some of this tension. Yet given the demands placed on the staff of the Women’s Program from their jobs, and the newness of the project, there did seem to be a need for concentration of leadership. The necessary concentration of leadership in one or a few people seemed contradictory to the principles of feminist participatory research throughout the early stages of the project.

I believe that strong, centralized leadership is necessary at the beginning of such a project where leadership capacity is not yet identified or developed and it is important to acknowledge this. Until the transfer of control of the project to the participants and
community is complete, demands continue to be placed upon the initiator of the project, most often the principal researcher. The literature on feminist participatory research is silent about this issue (Maguire 1993) and this silence does a disservice to those contemplating or embarking on a feminist participatory research project. As the project continues and there is some transfer of control, the contradictions are not as stark.

This tension appears not only in the area of leadership, but also in the area of self-disclosure. Reinharz notes that for many, self-disclosure is good feminist practice (1992, 32). Stating that self-disclosure is good feminist practice is, I believe, a dangerous generalization. Self-disclosure is intended to create trust, identification and a more equal relationship. The identification with our participants has the value of enhanced learning, but it also carries the disadvantage of the pain that comes from identifying with people (Reinharz 1992, 234). Further, self-disclosure cannot achieve trust, identification and a more equal relationship on its own. In feminist participatory research, where leadership and the demands of time, commitment and energy are critical, it is important to understand what can happen when and if the vulnerabilities take over. Because of these demands, this may be one methodology where the benefits of self-disclosure must be weighed carefully.

Self-disclosure poses challenges when the research topic is emotionally charged, such as in this study. Yet it would never be part of certain methodologies, such as the Statistics Canada 1993 Violence Against Women Survey. This study involved close-ended questionnaires to capture quantitative data. Self-disclosure poses challenges in feminist research where commitment, empathy, and involvement are required, regardless of the specific techniques used. So one must be aware of both the topic and the research
methodology if self-disclosure is to be part of the process. In sum, self-disclosure may be useful, but practice without flexibility or sensitivity to the responses of the participants does not reflect good feminist research. As always, feminist research must be responsive to the context and with self-disclosure, timing will be critical.

As I noted in Chapter 3, challenging the traditional hierarchy in the researcher/participant relationship requires sufficient resources (time, energy, money), as well as the commitment, experience, understanding and empathy of the researcher/s. The researcher should have a full understanding of the implications of self-disclosure (opening herself up to the vulnerability of pain) for herself prior to commencing the research and this issue should be re-visited often throughout the process.

Feminist participatory research was the methodology chosen for this project because of its goal of action, the challenge to the researcher/participant hierarchy, and the importance of collective inquiry. At the end of this phase of the project, which has included little action as a result of the investigation, the value of the methodology is apparent. Feminist participatory research was valuable for this project because of: the goals of investigation, education, and action; the collective and collaborative nature of the inquiry which required the development of a specific technique, the workshop; and working with the community. There were a number of aspects of the methodology that did not work for this project in this first phase: the contradictions of a university/community partnership whereby funding, leadership, and work were concentrated in the university and there was no direct participation from the women in the defining stages of the project; the length of time involved to ensure transfer of control and some resulting action (ongoing); and the demands made on the researcher.
Despite these limitations, feminist participatory research is a valuable methodology and valuable for this particular study. It has great potential for research in other communities that are facing complex issues.

In order to address some of the limitations that surfaced during this phase of the project, I would add four principles to Maguire’s framework (1987, 200-208):

1) Attention must be paid to ensure that the appropriate support (emotional, logistical and other forms) is available at all phases of feminist participatory research, and indeed any feminist research.

2) Participants must have a thorough understanding of the demands made on the researcher who will assume many roles, but particularly a leadership role, and on other participants prior to and throughout any feminist participatory research project.

3) While self-disclosure may be good feminist research practice, the researcher should have a thorough understanding of the implications of self-disclosure prior to beginning any feminist research project and exercise flexibility throughout.

4) Attention should be paid to understanding the leadership involved, different styles of leadership and the transfer of control of the project to the participants and the community prior to the beginning of any project.

The Women

As we begin a new century, advocates should be proud of the increase in public awareness that exists surrounding domestic abuse against women that has occurred over the past three decades due to their concerted efforts. Unfortunately, statistics reveal that violence against women, in its many forms, is part of our society. In 1993, Statistics
Canada released a far-reaching study, *Violence Against Women*, which reported that 29% of all ever-married women (including common law) have experienced some form of violence by their intimate partner.

This study, however, did not reach women who speak neither English nor French. In a recent article I argue for the inclusion of ethnicity-based statistics in reporting domestic abuse. I noted that upon publication of the *Violence Against Women* study, Landsberg, in her weekly column in the *Toronto Star* had asked, “Can we now act on women’s violence?” I changed the question to, “Can we now act on violence against ALL women in our country? (McDonald 1999a, 166). The societal values which have in the past legitimized abuse against women will continue to undermine efforts to confront the abuse, unless they, in conjunction with other contributing factors, are effectively challenged.

This study has focused on the experiences, particularly the legal experiences, of fourteen Spanish speaking immigrant women who have experienced some form of domestic abuse. Schneider points out that since the beginning of the women’s movement, feminist theory has been based on the particular experiences of women (1992, 521). She argues, however, that a particularity analysis, which highlights the complexities of experience, is inadequate to capture the full range of women’s experiences. Indeed, given the limitations on the participation of the women and the limited sample size, this study could not capture all experiences of Spanish speaking immigrant women in Toronto. The particularities of the experiences of the women who did participate, however, will contribute to our understanding of their learning strategies as Spanish speaking women who have experienced domestic abuse.
Through the interviews and workshop as women talked about their experiences with the legal system, the task becomes to describe and allow for change where change is needed. What was notable about the women as they described their experiences with the legal system, whether with lawyers or Legal Aid or the courts, was their inability to recollect the details of the proceedings or content. Some women remembered vividly their interactions with lawyers, most often when these had been negative experiences. Only Regina, who undertook to prepare and file documents herself, was fully cognizant of the steps involved and what legal remedies she was seeking. While most of the women used the legal terminology of "support" and "custody" in English, even when speaking in Spanish, few could give details about the Child Support Guidelines, or enforcement of agreements, or other aspects of their legal issues. In several cases, women noted that their lawyer was taking care of these aspects.

As I noted in the previous chapter, this absence of detail, or particularity, may be explained by a number of factors. Most importantly, however, I believe the absence itself is evidence of the lack of the women's participation and understanding as their legal cases proceeded. Regina was the one participant who was able to describe the difficulties she had to overcome, her learning process, and her successes. Her manner and tone were confident, if cautious. Regina was an active participant while the rest of the women seem to have been passive participants in their processes. Thus, we can learn from the absence of particularity in women's experiences with the legal system, as well as from its presence. This finding highlights the importance of active participation as a learning strategy.
While this absence is telling, I believe that a deeper understanding of the women’s experiences with lawyers would have been insightful. The data was limited on this topic for several reasons. I have suggested that the primary reason for this absence was that women were not actively involved in their cases or with their lawyers. As well, where women used their counsellors as intermediaries, they did not engage with their lawyers. Another reason could be that several of the women had seen lawyers years ago and could not remember details. Finally, if dealings with lawyers occurred at a time of crisis, women’s retention of that type of detail might have been limited as they focused on survival needs. Future research could focus specifically on women’s experiences with lawyers and ensure that participants were dealing with lawyers at or close to the time of the research.

Such absence of particularity was again notable in the interview data on experiences of racism or discrimination. Regina described how difficult it was to rent an apartment. “They don’t want you, welfare moms!” She did not attribute this discriminatory attitude of the landlords to her accent or darker skin colour, but rather to her low-income and receipt of social assistance. The counsellors of the Women’s Program speak consistently about how the woman are unable to penetrate the “system” of social and legal services: Legal Aid, the Family Responsibility Office, and lawyers. In some cases, the lack of English skills is the significant barrier. In others, the bureaucratic runaround and phone systems prove confounding. Also, the absence of explanatory factors is confusing for the women and serves to dampen any desire or initiative to act independently. For example, why was one woman told that Legal Aid did not cover family cases? As I do not know what had occurred at the Legal Aid office, we only have
the woman’s report. The next day with a counsellor’s assistance she was able to secure a certificate. Only one of the participants used the term discrimination during the interviews. While the women noted their low-income status and how that disadvantaged them, they did not attribute any of their difficulties in securing services to their race, colour, ethnicity, or country of origin. Again, this absence of particularity is telling. It speaks to the women’s own level of perception and consciousness about racism.

This study has not produced generalizations about Spanish speaking immigrant women who have experienced domestic abuse. Das Dasgupta notes that generalizations are dangerous where immigrant women are viewed as “backward, subservient, and quietly accepting of male domination and patriarchal control” (1998, 210). Indeed, such essentialism is dangerous and I believe it is important to recognize differences in the women’s backgrounds. Many of the women spoke about the attitudes of men from their countries, the importance of the Church and marriage in their culture, and other aspects. In order to design appropriate responses, these differences are critical to acknowledge. There will always be the risk of stigma when generalizations are made. The National Organization of Immigrant and Visible Minority Women of Canada (hereinafter NOIVMW) (1993, 12-15, see Chapter 2, 25-26) lists factors that should be considered when working with immigrant and visible minority women. This approach encourages awareness and understanding without fostering rigid stereotypes. This study has no factors to add to these comprehensive lists.

As we examine the particularities of the women’s experiences of abuse, we see many examples that reinforce and confirm former studies and writing and our understanding about domestic abuse (see Chapter 2, 16-27). The abuse took many forms:
economic, verbal, psychological, emotional, physical and sexual. The women’s immigration status, or lack of permanent one, was used in threats. The abuse, its length, form and severity, varied considerably and yet all of the women suffered from its impact. Many spoke of feeling humiliated, isolated, hopeless, and withdrawn. They all survived the abuse to talk about it confidentially and in some cases, to others. The impact of the abuse often affected their learning about the law at times when the law played a defining role in their lives.

There were also experiences of abuse that challenged our understanding of male power over women. The mothers-in-law were involved in the dynamics of power and control in several occasions. Understanding these particularities is important in order to help feminist theory expand beyond its traditional focus on gender subordination shaped by the institution of marriage. Feminist theory has faced similar challenges with situations of lesbian and gay battering and elder abuse (see Schneider 1992, 542-545). Society is rooted in a system of patriarchy, which values such traditionally male characteristics as domination, assertion, power and control. Conversely, it devalues traditionally female characteristics as submission, conciliation, weakness and cooperation. The challenge lies in the simplistic polarities this presents.

The particularities of the women’s experiences of abuse provide us with examples of how abuse is not simply male power over female submission. What was evident was the scope of patriarchy which extends beyond “man-woman” relationships. The power of patriarchy includes the extended family, specifically in societies where the extended family continues to play an integral role. In all of the cases of controlling and abusive mothers-in-law, all three of the women insisted that they move and saved the money in
order to do that. The women found options and exercised them as soon as they were able to. Importantly, it was economic independence that was able to get them away from these controlling atmospheres. While the abuse continued and in some cases worsened, the women understood the situations with their mothers-in-law and sought to redress them. All three men in these situations were the only sons (and in two cases the only child) of the mothers. The mothers seemed to be complicit in the dynamics of control. This study seeks to acknowledge these many complex layers of power and control. The focus of this study was the women's learning strategies and how the impact of the abuse, or trauma, affected their capacity to learn and their strategies to learn. In understanding the abuse, the situations with the mothers-in-law do demonstrate that dynamics of power and control operate in many domestic relationships and are not limited to gender, male over female.

In sum, in addressing challenges to feminist theory and practice that have arisen over the years in the area of domestic abuse, Schneider (1992) urges a closer look at particularity. In this study, the absence of particularity provides the insight. Most of the participants were unable to provide particularity about their legal experiences suggesting that they were not active participants in the process. This finding highlights the importance of active participation for learning to occur.

Further, the women spoke in some detail about the influences that their cultural background had on their views of marriage, the family, and the abuse. They did not, however, provide detail about their experiences of racism in Canadian society. Again, this absence of particularity provides insight. While other factors may be responsible, the absence suggests that the women on an individual basis do not have a well-formed consciousness about the racism and discrimination that exist in Canadian society. Finally,
the women detailed their experiences with different and complex dynamics of power and control in their domestic relationships. This particularity confirms the necessity for feminist theory to embrace a broader conception of domestic abuse that recognizes that power and control operate in all intimate relationships.

The Central Role of Learning

The focus of this study has been the women’s learning strategies, an area that has not been adequately addressed in public legal education. For some of the fourteen women who participated in this study, informal learning did occur during their experiences with the law and the legal system. For most of them, however, little or no learning about the law occurred. All indicated that they did have legal education and information needs. In determining how best to address these needs, this study argues that it is essential to incorporate the elements which contribute positively to the women’s informal learning experiences. This understanding and recognition of learning strategies, in the context of public legal education, have not been present in previous studies in this area.

While all the women had experiences with some aspect of the legal system, the level of their personal or active involvement varied considerably. The greater their active involvement, the greater their learning about the law had been. This level of action relates to Watkin and Marsick’s (1992) third element (action). In the majority of cases, the women did not learn about the law. They did learn, however; they learned exactly what they needed to survive at that moment, often how to find shelter and safety for themselves and their children.
This study has acknowledged the impact of trauma on learning, which can be viewed as a delimiter in Watkins and Marsick’s framework (1992). Any delimiters in a given learning situation can limit learning to a narrower context. Various delimiters were evident in the women’s situations: language, access to resources, lack of information, trauma and crisis, as well as other survival needs. An understanding of these delimiters can assist in facilitating learning and the women were clear in expressing their particular learning needs at the time of crisis. Recognizing these priorities and respecting them will go a long way to providing a meaningful learning experience.

Understanding the factors that impede and enhance learning allows us to recognize what should be incorporated into any initiative to address the women’s legal information and education needs within the general context of the Canadian legal system, and in particular the delivery of legal services in Ontario for these women. The women believed that learning about the law was an important goal and were able to clearly articulate their strategies for learning. They turned those strategies into concrete proposals for action to address this goal.

In order to accommodate the women’s learning strategies to facilitate learning about the law in the delivery of legal services in Ontario, a new paradigm in poverty law is required. This paradigm would give client needs and critical legal education, a specific model of legal education that incorporates the women’s learning strategies, a central role in the conceptualization and practice of poverty law for Spanish speaking (and other) immigrant women who have experienced domestic abuse. The paradigm has been developed from the specific results of this study and has been described with specific
reference to the women, but it certainly has potential for poverty law in general and all disadvantaged groups.

The methodology used in this study facilitated the women's learning. The research process was itself a learning process and a participatory one, for the women participants, for the staff and for me, the principal researcher. Most importantly, by understanding their own learning strategies, the women were able to design such initiatives to incorporate these strategies and ensure that their learning is maximized. The action that continues as a result of the study, is also a learning process for the women. Learning has played a central role throughout this study, in the process, in the findings, and in the subsequent action.

Next Steps

In order to achieve some measure of success with the development and implementation of the second phase of this project, there are a number of requirements. First of all, sufficient funding must be secured and preferably not from sources which would restrict innovative approaches to addressing the women's needs. Networking and discussions with METRAC – The Metropolitan Action Committee on Violence Against Women and Children - and Legal Aid Ontario are ongoing as possible collaborators in the legal workshop aspect of the program. Second, the present commitment and level of participation from all those involved must be maintained and even increased. Third, the immediate needs of the women (safety and survival) must be addressed, through appropriate resources. Fourth, the leadership must be transferred from me, a doctoral student and a lawyer, to the women themselves. Fifth, the women must acquire the
information and skills necessary to allow them to assist other women. This training will be critical. If women feel unable to respond to the needs of other women, they will not continue as peer supporters. And finally, the women must understand the problem of domestic violence as not a localized problem, but one which extends beyond borders. By moving their Derecho a Saber/Right to Know group from the local context to a regional, national, and international one, we will gain greater understanding from the lessons already learned around the world.

Concluding Remarks

This study specifically contributes a clear understanding of the women's legal education and information needs. Importantly, the study also contributes an understanding of the women's learning strategies which have been translated into concrete proposals for action to address those needs within the context of poverty law in Ontario. The strength of the study lies in its ability to pull together many different issues (poverty law, immigrant women, domestic abuse, and public legal education and learning about the law) through a focus on adult learning strategies. While the women who have participated come from one community, the Spanish speaking community in Toronto, the specific results of this study and importantly, the methodology, can be applied to other communities of women who have experienced domestic abuse. The new paradigm for poverty law, proposed in Chapter 5, is developed from these specific results and importantly, incorporates domestic abuse and gender into poverty law. It can, however, have a broader application for other disadvantaged groups. The project continues to grow
and develop and the women who initially participated continue to learn and participate. This section provides a summary of the most important findings.

1) Feminist participatory research requires greater development.

The methodology, feminist participatory research, played an integral part in this study as it facilitated the women’s participation in the development of learning strategies. It also provided many challenges and learnings. The framework provided by Maguire (1987) as an assessment tool ultimately proved to be too limited as it did not address the questions that arose during this research process. Two critical areas stand out: self-disclosure and leadership. Both of these areas relate to the role of the researcher in feminist participatory research. Challenging the traditional hierarchy in the researcher/participant relationship requires sufficient resources (time, energy, money), as well as the commitment, experience, understanding and empathy of the researcher/s. The researcher should have a full understanding of the implications of vulnerability for herself prior to commencing the research and this issue should be re-visited often throughout the process.

Overall, the methodology was valuable for this project because of: the goals of investigation, education, and action; the collective and collaborative nature of the inquiry which required the development of a specific research technique, the workshop; and working with the community. There were also aspects of the methodology that did not work for this project: the contradictions of a university/community partnership whereby funding, leadership, and work were concentrated in the university and there was no direct participation from the women in the defining stages of the project; the length of time
involved to ensure transfer of control and some resulting action (ongoing); and the demands made on the researcher.

Despite these limitations, feminist participatory research is a valuable methodology and has been valuable for this particular study. In order to address these limitations, I would add four principles to Maguire’s framework (1987):

1) Attention must be paid to ensure that the appropriate support (emotional, logistical, and other forms) is available at all phases of feminist participatory research, and indeed any feminist research.

2) Participants must have a thorough understanding of the demands made on the researcher who will assume many roles, but particularly a leadership role, and on other participants prior to and throughout any feminist participatory research project.

3) While self-disclosure may be good feminist research practice, the researcher should have a thorough understanding of the implications of self-disclosure prior to beginning any feminist research project and exercise flexibility throughout.

4) Attention should be paid to understanding the leadership involved, different styles of leadership and the transfer of control of the project to the participants and the community prior to the beginning of any project.

2) Understanding learning strategies is critical for developing appropriate responses to legal information and education needs.

The women who participated in this project were very clear about their legal information needs. There have been a number of studies in Canada that examine public legal education (MacLeod and Shin 1994; Godin 1994; Currie 1994; Burtch and Reid
These shidies, however, for the most part do not take into consideration adult learning strategies. Importantly, the women articulated learning strategies to address their legal information and education needs. They addressed individual and collective learning strategies from a wide variety of perspectives: legal, emotional, and practical. The methodology, feminist participatory research, facilitated and indeed was integral in, their understanding and the development of their learning strategies. They were able to translate their learning strategies into concrete proposals for action to address their legal education and information needs. The development of these proposals are significant for other communities of women who have experienced domestic abuse.

3) Traditional legal services are not adequate to respond to the needs of Spanish speaking women who have experienced domestic abuse. Gender analysis in poverty law needs further development.

It has long been recognized that traditional legal services are not adequate to respond to the needs of disadvantaged individuals and groups (Wexler 1970). Decades after the emergence of poverty law as a distinct area, gender remains virtually absent in theory and in practice, as has domestic abuse. Ontario continues to provide a traditional model of legal services for immigrant women who have experienced domestic abuse. The women very clearly articulated their needs and in doing so, highlighted the gaps and inadequacies in the conceptualization and delivery of legal services currently being provided. While this study has not developed a thorough gender analysis in poverty law, the results of this study demand more work in this area.
5) *Poverty law theory and practice can be enriched by a client-centred focus.*

Poverty law, its development, theories and practices, has been central to the context of this study and the discussion surrounding the unaddressed needs of the participants. The women played a central role to clearly articulate their needs, their learning strategies, and to develop realistic solutions. This suggests that clients can be part of solutions and that poverty law as a whole could be enriched by this recognition. The legal profession may not need to play such a central role as Mosher suggests in a paper discussing Latin American legal services,

...the possibility that our legal strategies have failed precisely because we have made incorrect assumptions about who are the primary actors of social change, and of how social change works: a possibility that largely escapes the critics of the North (1992, 3).

Feminist participatory research has allowed the women participants to engage in constructive problem-solving. By working together, they have come to understand their needs and learning strategies which begin with their experiences. Beginning with the clients' needs, as opposed to what the law and the legal profession can do, offers an alternative approach to resolving difficult problems. This study has proposed a new paradigm for poverty law that has a client-centred focus through critical legal education. This paradigm challenges the central role of the lawyer as the only guardian of knowledge and the key and often, only problem-solver.

5) *Critical legal education must be an integral component in a client-centred poverty law paradigm.*

During the interviews and importantly, the workshop, the women articulated learning strategies and used these strategies to develop solutions to their legal information and education needs. Their strategies make use of many feminist and Freirian
pedagogical techniques. Pulling their strategies together to develop a structured learning program, critical legal education becomes an integral component in a client-centred poverty law paradigm.

I define critical legal education as "a learning process that incorporates critical pedagogy to understand individual and collective needs and how to address those needs through legal and/or non-legal strategies." The projects and writing of American lawyers such as Eagly (1998), Gordon (1993), and Brustin (1995) provide hope that critical legal education can be useful in poverty law practice. The women will need to learn legal information, rules, and to be able to critically question and analyze this legal information in order to make it meaningful for their situation. Lawyers and other professionals will also need to learn about the clients' situations, from a social, economic, political and historical perspective. These added dimensions will open up possibilities for alternative approaches to problem solving.

6) Support and active participation are essential elements to allow women to challenge unequal relationships of power – whether in their intimate relationships, or their professional/client relationships.

Throughout the interviews and the workshop, the women spoke consistently about the need for support, both emotional and practical, as they work their way through the legal system. As well, all the women who participated saw a role for themselves in assisting other women in their community. They believed that they had learned a great deal from their experiences and augmented with specific training, they wanted to share what they know and offer support to others. As a result, the Derecho a Saber/Right to Know program will include a peer support program, whereby the women will be trained
in basic legal information and issues in woman abuse in order to work individually with other women who are involved in legal proceedings. This program will also facilitate outreach to isolated women in the community and facilitate accuracy in the informal learning about the law that occurs amongst women and others daily in supermarkets, the parks, and laundromats throughout Toronto.
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Appendix A

Consent Forms
Consentimiento de Divulgar Información

Mujeres y Sus Derechos Legales

La Entrevista - junio 1999

Yo entiendo que voy a participar en un proyecto, "Mujeres y Sus Derechos Legales." La investigadora es Susan McDonald, estudiante doctoral del Instituto para Estudios en Educación de Ontario de la Universidad de Toronto (OISE/UT), supervisada por la Profesora Shahrzad Mojab.

Hay dos (2) objetivos:
1) determinar las necesidades de información legal para mujeres de habla hispana que experimentan abuso en su vida, y
2) diseñar un programa para satisfacer estas necesidades.

Yo entiendo que voy a participar en una entrevista de 2 horas a un lugar acordado previamente realizada por Susan McDonald. La entrevista será en español y será grabada.

Yo entiendo que Susan McDonald va a preguntarme sobre mi situación familiar y el contestar de alguna de estas preguntas puede ser doloroso. Si es necesario Susan puede proveerme con nombres de organizaciones de apoyo donde podría encontrar apoyo. Yo puedo sentirme libre de hacer preguntas en el momento que lo desee o absenterme de participar.

Yo he sido asegurado que toda la información que daré será confidencial salvo en las siguientes situaciones:
1) si las autoridades de inmigración mandan una citación judicial para esta información en el caso de que no tenga estatus legal en Canadá; y
2) si hay casos de abuso de niños que no hayan sido reportado.

Toda la información que estoy dando será destruida dentro de los 6 (seis) meses del término del proyecto. Solamente los miembros del equipo de investigación conocerán mi identidad. Mi nombre será reemplazado por otro nombre y mis características (edad, país de origen, número de niños, y número de años en Canadá) serán presentadas de manera que nadie pueda identificarme.

Yo entiendo que voy a recibir una copia de mi entrevista y los resultados del proyecto en inglés o español. Si lo deseo, puedo pedir que mis palabras no sean citadas en el reporte final. Entiendo que el Centro para Gente de Habla Hispánica será nombrado en el reporte y artículos publicados.

"El título del tesis de Susan McDonald es "Mujeres, Étnicidad, la Violencia Doméstica y Aprendizaje"
Yo entiendo que mis gastos de transporte serán cubiertos y que voy a recibir $25 como honorario por mi participación. Si es necesario, se proveerá cuidado de niños.

Estoy de acuerdo en participar en este proyecto.

Nombre ____________________________________________

Firme _____________________________________________

Fecha _____________________________________________

Si tiene preguntas sobre este proyecto, contacte a la Profesora Shahrzad Mojab a 416-923-6641, extensión 2242.

Cómo quiere recibir los resultados de este proyecto? Escoga una de estas opciones o sugiera otra.

Idioma  Inglés ☐  Español ☐

☐ Yo quiero que los resultados sean enviado por correo a mi dirección familiar:
  ____________________________________________
  ____________________________________________
  ____________________________________________

☐ Yo recogeré los resultados del Centro para Gente de Habla Hispana, 1004 Bathurst Street, 533-8545, de la recepción o del Programa de Mujeres.

☐ Yo quiero reunir con Susan McDonald sola para recibir los resultados.
Consentimiento de Divulgar Información
Mujeres y Sus Derechos Legales

El Retiro – julio 1999

Yo entiendo que voy a participar en la segunda phase del proyecto, “Mujeres y Sus Derechos Legales.” La investigadora es Susan McDonald, estudiante doctoral del Instituto para Estudios en Educación de Ontario de la Universidad de Toronto (OISE/UT), supervisada por la Profesora Shahrzad Mojab.

El objetivo de esta phase es diseñar un programa de educación pública legal para las mujeres de habla hispana que experimentan abuso en su vida.

Yo entiendo que asistiré a un retiro, el 28 de julio hasta el 30 de julio de 1999 a Hart House Farm. Voy a participar en grupo de otras mujeres de habla hispana que experimentan abuso. Asistirán también las consejeras del Programa de Mujeres, la Profesora Shahrzad Mojab, y la estudiante Susan McDonald.

Yo entiendo que voy a colaborar en la planificación de un programa de educación pública legal. Puedo sentirme libre de hacer preguntas en el momento que lo desee o abstenerme de participar.

Yo he sido asegurado que toda la información que daré será confidencial. Solamente los miembros del equipo de investigación conocerán mi identidad. Mi nombre será reemplazado por otro nombre y mis características (edad, país de origen, número de niños, y número de años en Canadá) serán presentadas de manera que nadie pueda identificarme.

Yo entiendo que el Centro para Gente de Habla Hispana será nombrado en el reporte final y artículos publicados. Estoy de acuerdo que mis palabras pueden ser citadas en el reporte final o en artículos.

Yo entiendo que durante el encuentro mis gastos de transporte, vivienda, y comida serán cubierto. Durante las horas de sesiones, se proveerá el cuidado de niños.

"El título del tesis de Susan McDonald es "Mujeres, Etnicidad, la Violencia Doméstica y Aprendizaje"
Estoy de acuerdo en participar en este proyecto.

Nombre ___________________________________________

Firma ___________________________________________

Fecha ___________________________________________

Si tiene preguntas sobre este proyecto, contacte a la Profesora Shahrzad Mojab a 416-923-6641, extensión 2242.
Consent Form

The Interview – June 1999

I understand that I am participating in a research project, Women, Ethnicity, Domestic Violence, and Learning, to be conducted by Dr. Shahrzad Mojab of the Ontario Institute for Studies in Education of the University of Toronto and by a doctoral student, (name of research assistant will be added).

The purpose of the research is to determine the legal education needs of immigrant women in domestic violence situations and design a program to best address those needs. The research will contribute to the development of a public legal education program which will benefit immigrant women in domestic violence situations.

I understand that I will be interviewed individually at a time and a place that suits my needs. I will be interviewed once for no more than two hours. I can choose to be interviewed in English or Spanish. I understand that the interview will be tape-recorded.

I understand that I will be asked questions about my domestic situation. Answering these questions may be stressful for me and I understand that at the end of the interview I will be given referrals to agencies which can help me. I understand that I do not have to answer any questions I do not want to and that I may ask questions about the study at any time, now or in the future. Further, I understand that I may end the interview or withdraw from the study at any time without any adverse consequences.

I have been assured that all the information that I give to this research project will be kept confidential. The interview tapes and transcripts will be destroyed within six months after the completion of the project. I understand that my identity will only be known to members of the research team. My name will be deleted and replaced with a pseudonym in the transcripts. Identifying characteristics, such as my age, country of origin, number of children, and length of residence in Canada, will be presented in the report in an aggregated format so that I cannot be identified.

I understand that I will receive a transcript of my interview and the results of the study in Spanish or English. I understand that I can veto any quotations or statements that I do not wish to be included in the final report. I understand the Centre for Spanish Speaking Peoples will be named in the final report and in any publications. I agree that quotations from my contributions can be used in research reports and publications out of this project.

I understand that incidents of previously unreported child abuse must be reported to the appropriate authorities. Further, I understand that this research can be subpoenaed for use in immigration proceedings.
I understand that my transportation and childcare costs will be covered and that I will be given $25 as an honorarium for my participation in the research project.

Under these conditions, I agree to participate in this study.

Name __________________________

Signature ________________________

Date ___________________________

If you have any questions about this research project, contact Dr. Shahrzad Mojab at 923-6641, ext. 2242.

How do you wish to receive the results of this project? Choose one of these options or suggest another.

Language

□ English  □ Spanish

□ I want the results sent by mail to my home address.

________________________________________

________________________________________

________________________________________

□ I will pick up the result from Centre for Spanish Speaking Peoples, 1004 Bathurst Street, 533-8545, from the reception or the Women’s Program.

□ I want to meet with Susan McDonald alone to receive the results.
Consent Form

The Retreat – July 1999

I understand that I am participating in the second part of a research project, *Women, Ethnicity, Domestic Violence, and Learning*, to be conducted by Dr. Shahruzad Mojab of the Ontario Institute for Studies in Education of the University of Toronto and by a doctoral student, (name of research assistant will be added).

The purpose of this part of the research is to design a public legal education program to best address the needs of Spanish-speaking immigrant women who have experienced domestic violence.

I understand that I will attend a weekend workshop from July 28 to July 30 1999 at Hart House Farm. I understand that other Spanish-speaking women who have experienced domestic violence may also attend this workshop. I understand that the staff (Maria Rosa Maggi, Viviana Fleming, and Ruth Lara) of the Women's Program at the Centre for Spanish Speaking Peoples may attend, as well as Dr. Mojab and up to two graduate students.

I understand that I will assist in the planning of a public legal education workshop and that I may be asked for comments or suggestions around this educational program, such as When is the best time to have the program? How many people should attend? I understand that I do not have to answer any questions I do not want to and that I may ask questions about the study at any time, now or in the future. Further, I understand that I may leave the workshop at any time during the day without any adverse consequences.

I have been assured that all the information that I give to this research project will be kept confidential. I understand that my identity will only be known to members of the research team, which includes the staff of the Women’s Program. My name will be deleted and replaced with a pseudonym in the transcripts. Identifying characteristics, such as my age, country of origin, number of children, and length of residence in Canada, will be presented in the report in an aggregated format so that I cannot be identified.

I understand the Centre for Spanish Speaking Peoples will be named in the final report and in any materials or publications. I agree that quotations from my contributions can be used in research reports and publications out of this project.

I understand that my transportation, childcare, and food costs will be covered.
Under these conditions, I agree to participate in this part of the research project.

Name __________________________

Signature ________________________

Date _____________________________

If you have any questions about this research project, contact Dr. Shahrzad Mojab at 923-6641, ext. 2242.
Appendix B

Interview Guide
Interview Guide

I. Personal Information
A. Background
   i) country of origin
   ii) date of birth
   iii) education in country of origin
   iv) employment history in country of origin (including all home work)
   v) employment history in Canada (including all home work)

B. Immigration Background
   i) arrival date in Canada (specify if not Ontario, date of arrival in Toronto)
   ii) immigration category on arrival (refugee claimant, independent, refugee, family class – may need to probe)
   iii) if family class, ask about sponsorship by husband – from abroad, from within Canada

II. Family History
   i) current marital status (married, common-law, separated, divorced, widowed, etc)
   ii) how/when did you meet your spouse? (arranged marriage, long courtship, in home country, in Canada)
   iii) spouse’s background (country of origin, immigration history)
   iv) how many children (grandchildren) do you have? Boys/girls? Ages? Where are they living?
   v) Describe relationship in home country (how did he act towards you when he got angry? How did he act when things (at work, at home) went wrong? Who had control of the money? Describe any drinking/drug use?
   vi) Describe relationship here in Toronto (see (v))
   vii) Describe breakdown – use of shelters, reaching out for help – when & how

III. Canadian Legal System – may or may not be able to answer these questions
   i) finding a lawyer – how, when, who
   ii) reasons for seeing a lawyer – family law (specific), criminal law, immigration law, other (income maintenance, housing, child protection)
   iii) what do you remember about seeing the lawyer – demeanour, understanding the information
   iv) experiences with tribunal/court – did you have a lawyer or other advocate, did you understand the process/law, did you make decisions about your case (if not, who did)
   v) other

IV. Legal Information and Learning Needs
   i) what would you like to know about (family law, criminal law, immigration law, etc.)
ii) from your experiences, what do you think other women in your situation should know about

iii) how do you like to learn? (prompt – written materials, presentations, activities in a workshop, the experience itself, going to court, from a professional/peer, radio/TV/videotape, computers, theatre)

V. Follow-Up

i) Would you like to help design a program for women like yourself?

ii) How would you like to be involved? Do you have any special skills?
Appendix C

Workshop Curriculum
Women and their Legal Rights
Workshop

General Objective
To design a legal education program to satisfy the needs of Spanish speaking women who have experienced abuse in their lives.

Specific Objectives
1) Identify the expectations of participants.
2) Understand our differences and privileges.
3) Reflect on the barriers to accessing the legal system in Ontario – in theory and in practice.
4) Identify the principal legal areas that the women consider most important.
5) Elaborate a workplan to achieve the learning and the understanding of the laws (the system, the process, etc.) which most affect and interest Spanish speaking women who have experienced abuse in their lives.

Methodology
The educational work is founded on:
- recognition that the starting and ending point for the activities is the daily lived experiences of the women;
- the necessity to generate processes of empowerment for the women;
- the necessity to speak about our daily lives;
- discovering our own power when we recognize our dignity as persons, often denied and in some cases not recognized by ourselves.

Activity #1 – Introductions – 20 minutes
Objectives
1) To introduce ourselves.
2) To identify our expectations for the workshop.

Materials
Objects
Paper
Pen

Methodology
The group sits in a circle. There is a collection of objects in the centre of the group – like toys, photos, etc. Each woman chooses one object. She must introduce herself with her name, the reason she chose the object, and an expectation for the workshop. Someone will write down the expectations.

Activity #2 – The Agreement – 20 minutes
Objectives
1) To explain the objectives of the workshop and include suggestions from the group.
2) To elaborate an agreement between the group members for the workshop.
Materials
15 folders with the agenda, paper and pen
Paper
Tape
Pen

Methodology
Each woman receives a folder. The facilitator explains the objectives of the workshop and asks for suggestions from the group. These suggestions are noted. The group designs an agreement. The facilitator explains the purpose of an agreement and together, the group will suggest and decide the principles most important for the agreement.

Activity #3 – Wall to Wall – 30 minutes
Objectives
1) To locate and understand our differences and commonalities.
2) To understand the roots of discrimination and the privileges that we have and do not have.

Methodology
The group will be standing up on one side of the room. The facilitator will read each point and if you belong with this group, you must cross to the other side of the room. If you do not belong to this group, you must stay where you are. The facilitator will read all the points. Everyone will cross the room various times.

It is not necessary to participate. If a woman does not wish to participate, she should try to think about the reason and her feelings.

The facilitator will ask the participants how they feel if they found themselves alone or if they found themselves with the more privileged group.

Points
If you do not have education in the university or college...
If you have received social assistance – like welfare, Family Benefits or Ontario Works ...

If one or both parents worked as manual labourers...
If you have a physical disability – visible or invisible...
If you are a single mother...
If English is not your first language...
If someone has told you that you cannot do something because you are a girl or a woman.

If you have spent time in a psychiatric institution...
If you are an immigrant...
If your parents are immigrants...
If you are older than 50 years...
If you are a single woman...
If you do the same work as a man and receive a lower salary . . .
If you have lived on the street . . .
If you have an accent . . .
If you have spent time in jail . . .
If you grew up in a family without a father . . .
If you have used a food bank . . .
If you are a woman . . .

Discussion
How did you feel a various moments during the activity?
Surprises?

Activity #4 – Listen to me! – 15 minutes
Objective
1) To learn to listen actively.

Methodology
The group will divide into pairs. Each person will speak about a problem for five minutes. The other person will summarize the problem. Then they will change roles. In the large group, all will discuss how this worked as an activity.

BREAK – 15 minutes

Activity #5 – Barriers – 1 hour, 20 minutes
Objectives
1) To identify the barriers in accessing the Canadian legal system for Spanish speaking women who have experienced abuse in their lives.
2) To identify the elements that help to diminish the barriers.

Materials
4 Equality Wheels
Pens
Tape
Copies of the questions

Methodology
The large group will divide itself into groups of 4 people. Each person in the group will tell the others about her first experience accessing the Canadian legal system (5 minutes per person). Points to consider:
1) When did this experience happen?
2) Why did you decide to approach (if you did) the legal system (e.g. the police, a lawyer)?
3) Did someone help you with this decision? Who? (a counsellor, friend, family member, doctor)
4) Did you have problems accessing the legal system? What were they?
5) What were the consequences of your actions?
After each person has had the opportunity to tell her experience, the group will reflect on the following questions:

1) Who helped you make the decision to access the legal system?
2) Did you have models for making the decision?
3) What were the factors that helped you? E.g. level of education, social class (money), English fluency, time in the country, etc.
4) What are the conditions that Spanish speaking women who have experienced abuse in their lives need in order to be able to access the Canadian legal system?

One person in each group will take notes on these answers (20-30 minutes).

Each group will tell one experience for the large group – or they can act it out if they wish. During this, the facilitator will use the Wheels of Equality to reflect the principal factors in each experience. The facilitator will do a summary of the principal points. There is time for reflections, comments, etc. (30 minutes).

Before taking lunch, Susan will do a summary of the morning and what they have done and what they will do for the afternoon.

LUNCH – 1 hour, 30 minutes

Activity #6 – Check In – 5/10 minutes
Objective
1) To allow time for questions, suggestions, etc.

Metodologia
The facilitator will ask if anyone has questions or suggestions for the second half.

Activity #7 – Our Needs – 1 hour, 20 minutes
Objective
1) Determine the legal information needs of Spanish speaking women who have experienced abuse in their lives.

Materials
Paper
Pen
Tape

Methodology
The large group will divide itself into groups of 4 people. For half an hour each small group will discuss the following questions:

1) Describe one experience with the Canadian legal system when you wanted to understand or know more – about the process, the laws, the roles of each person etc. (5 minutes per person)
2) What legal information would you have liked to have had or would you like to have? Why? (10 minutes)

One person elected in each group will take notes on the answers for question #2. One elected person will present the legal information identified by the group and the justification (30 minutes). All this information will be noted. After the large group will prioritize the needs (20 minutes).

BREAK - 10 minutes

Activity #8 – Our Program – 1 hour, 30 minutes

Objectives
1) Determine the preferred methods of learning.
2) Determine the important details for the program.

Materials
Paper
Pens
Tape

Methodology
The large group will divide itself into groups of 4 people. Using the Wheels of Equality as points of reference, each group will discuss one of the following questions (30 minutes):

1) How would you like to learn legal information? – in groups, individually, with participation, with seminars, with written or visual materials, with the computer, with the assistance of a professional (who)
2) How can we decrease the barriers identified earlier for the group?
3) How are we going to publicize the program? Particularly for the women who most need the information?
4) What are the important details of this program? For example, hours, length of sessions, daycare, transportation costs, food, materials, publicity.

One person elected in each group will note the answers to the questions. One person elected will present the answers and the large group will discuss, make additions and changes. (1 hour)

Activity #9 – What we learned – 20 minutes

Objectives
1) Affirm the contribution of each participant in the group.
2) Do an evaluation of the workshop.

Materials
15 envelopes, cada uno tiene el nombre de cada mujer en el grupo
Paper
Pens
Evaluation forms

Methodology
Put all the envelopes in the centre of the group. Each woman has 15 (or # in group) little papers. You must write one positive thing about each woman in the group on each piece of paper and put this paper in the corresponding envelope (10 minutes). After the women can collect their own envelopes and if they wish, can share one thing with the group (5 minutes).

Each woman will fill out an evaluation. Before doing so, she must think and tell one thing that she learned during the workshop to the group.
Las Mujeres y Sus Derechos Legales
Taller

Objetivo General
Diseñar un programa de educación legal para satisfacer las necesidades de mujeres de habla hispana que experimentan abuso en su vida.

Objetivos Específicos
1) Identificar las expectativas de participantes.
2) Entender nuestras diferencias y el privilegio.
3) Reflexionar sobre las barreras de acceso al sistema legal en Ontario – en teoría y en práctica.
4) Identificar los áreas legales principales que las mujeres consideramos importantes.
5) Elaborar una estrategia propuesta de trabajo para lograr el aprendizaje y el entendimiento de las leyes (el sistema, el proceso etc.) que más afectan e interesan a las mujeres de habla hispana que experimentan abuso en su vida.

Metodología
El quehacer educativo se fundamenta en:
- reconocer que el punto de partida y de aterrizaje de las actividades es la experiencia de la vida cotidiana de las mujeres;
- la necesidad de generar procesos de empoderamiento de las mujeres;
- la necesidad de verbalizar nuestras cotidianidades;
- descubrir nuestro propio poder cuando reconocemos nuestra dignidad de personas, muchas veces negadas y en algunos casos no percibidas por nosotras mismas.

Actividad #1 – Introducciones - 20 minutos
Objetivos
1) Introducirnos.
2) Identificar nuestras expectativas para el taller.

Materiales
Objetos
Papel
Lápiz

Metodología
El grupo se sentará en un círculo. Habrá una colección de objetos en el centro del grupo – como juguetes, fotos, etc. Cada mujer tiene que escoger un objeto. Ella tiene que introducirse con su nombre, la razón por haber escogido ese objeto, y una expectativa para el taller. Alguien va a notar las expectativas.

Actividad #2 – El Acuerdo - 20 minutos
Objetivos
1) Explicar los objetivos del taller e incluir sugerencias del grupo.
2) Elaborar un acuerdo entre los miembros del grupo para el taller.
**Materiales**
15 folders con la agenda y papel y un lápiz
Papel
Cinta
Lápiz

**Metodología**
Cada mujer recibiría un folder. La facilitadora explicará los objetivos del taller e pedir sugerencias del grupo. Estas sugerencias serán notadas.
El grupo desarrollará un acuerdo. La facilitadora les explicará el propósito de un acuerdo y juntas, el grupo va a sugerir y decidir los principios más importantes para el acuerdo.

**Actividad #3 – Pared a Pared - 30 minutos**
**Objetivos**
1) Ubicar y entender nuestras diferencias y comonalidades.
2) Entender las raíces de discriminación y los privilegios que tenemos o no tenemos.

**Metodología**
El grupo estará a pie a un lado del cuarto. La facilitadora leerá cada punto y si se pertenece a este grupo, tiene que cruzar al otro lado del cuarto. Si no se pertenece a este grupo, tiene que quedarte. La facilitadora leerá todos los puntos. Todo el mundo va a cruzar el cuarto varias veces.

No es necesario participar, pero si una mujer no quiere participar, ella debe tratar de pensar la razón y sus sentimientos.

La facilitadora preguntará a las participantes cómo se sienten si se encuentra sola o si se encuentra con el grupo más privilegiado.

**Puntos:**
Si no tiene educación en la universidad o colegio ...
Si has recibido asistencia social – como welfare, Family Benefits o Ontario Works – ...
Si uno o ambos padres trabajaban como trabajadores manuales ...
Si tiene una discapacidad física – visible o invisible – ...
Si es madre soltera ...
Si inglés no es su primer idioma ...
Si alguien le ha dicho que no podía hacer algo porque es chica o mujer ...
Si ha pasado tiempo en una institución psiquiátrica ...
Si es inmigrante ...
Si sus padres son inmigrantes ...
Si tiene más de 50 años ...
Si es mujer soltera ...
Si hace el mismo trabajo que un hombre y recibe un salario menor ...
Si ha vivido en la calle ...
Si tiene un acento ...
Si ha pasado tiempo encarcelada ...
Si creció en una familia sin padre. . .
Si ha usado un banco de comida. . .
Si es mujer. . .

**Discusión**
Cómo se sentían a varios momentos durante la actividad?
Sorpresas?

**Actividad #4 – Escúchame! - 15 minutos**

**Objetivos**
1) Aprender a escuchar activamente.

**Metodología**
El grupo va a dividir en pares. Cada persona hablará de un problema por cinco minutos. La otra persona va a resumir el problema. Entonces, ellas desempeñan el otro papel. En grupo entero, se discuten cómo fue esta actividad.

**DESCANSO – 15 minutos**

**Actividad #5 – Barreras - 1 hora 20 minutos**

**Objetivos**
1) Identificar las barreras en el acceso del sistema legal canadiense para mujeres de habla hispana que experimentan abuso en su vida.
2) Identificar los elementos que ayudan a disminuir las barreras.

**Materiales**
4 Ruedas de Igualdad
Lápices
Cinta
Copias de las preguntas

**Metodología**
En grupo grande va a dividirse en grupos de 4 personas. Cada persona en el grupo va a contarles a las otras de su primera experiencia accesando el sistema legal canadiense (5 minutos cada uno). Puntos que considerar:
1) Cuándo pasó esta experiencia?
2) Por qué decidiste acudir (si fue así) al sistema legal? (p.e. la policia, un abogado/a)
3) Te ayudó alguien con esta decisión? Quién? (una consejera, una amiga, un familiar, un médico/a)
4) Tuviste problemas en accesar el sistema legal? Cuáles eran?
5) Cuáles eran las consecuencias de tus acciones?

Después de que cada persona haya tenido la oportunidad de contar su experiencia, el grupo va a reflexionar sobre estas preguntas:
1) Quién las ayudó a tomar una decisión a acudir al sistema legal?
2) Tuvieron modelos para tomar una decisión?
3) Cuáles eran los factores que las ayudaron? p.e. nivel de educación, clase social (dinero), fluencia en inglés, tiempo en este país etc.
4) Cuáles son las condiciones que las mujeres de habla hispana que han experimentado abuso en su vida necesitan para poder acudir al sistema legal canadiense?

Una persona en cada grupo tomará notas sobre estas respuestas (20-30 minutos).

Cada grupo contará una experiencia para el grupo grande – o pueden dramatizarla si quieren. Mientras esto, la facilitadora usará las Ruedas de Igualdad para reflejar los factores principales en cada experiencia. La facilitadora haré un sumario de los puntos principales. Hay tiempo para reflexiones, comentarios etc. (30 minutos)

Antes de tomar almuerzo, Susan haré un sumario de la mañana y lo que han hecho y lo que harán por la tarde.

ALMUERZO – 1 hora y media

Actividad #6 – Check In - 5/10 minutos
Objetivo
1) Dar tiempo para preguntas, sugerencias etc.

Metodología
La facilitadora va a preguntar al grupo si hay comentarios, sugerencias etc. para la segunda parte.

Actividad #7 – Nuestras Necesidades - 1 hora 20 minutos
Objetivo
1) Determinar las necesidades de información legal de mujeres de habla hispana que han experimentado abuso.

Materiales
Papel
Lápiz
Cinta

Metodología
En grupo grande va a dividirse en grupos de 4 personas. Por media hora cada grupo pequeño va a discutir las preguntas siguientes:

1) Describan una experiencia con el sistema legal canadiense cuando quería entender o saber más – del proceso, de las leyes, de los papeles de cada persona etc. (5 minutos cada persona)
2) Qué información legal les habría gustado tener o les gustaría tener? Por qué? (10 minutos)
Una persona elegida en cada grupo va a notar las respuestas de pregunta #2. Una persona elegida va a presentar la información legal identificada por el grupo y la justificación. (30 minutos) Toda esta información será notada. Después el grupo entero va a priorizar las necesidades. (20 minutos)

**DESCANSO – 10 minutos**

**Actividad #8 – Nuestro Programa - 1 hora y 30 minutos**

*Objetivos*

1) Determinar los métodos preferibles de aprender.
2) Determinar los detalles importantes del programa.

*Materiales*

- Papel
- Lápices
- Cinta

*Metodología*

En grupo grande va a dividirse en grupos de 4 personas. Usando las Ruedas de Igualdad como puntos de referencia, cada grupo va a discutir una de estas preguntas siguientes (30 minutos):

1) Cómo les gustaría aprender información legal? – en grupo, individualmente, con participación, con conferencia, con materiales escritos o visuales, con la computadora, con asistencia de un/a profesional (quien/es)

2) Cómo podemos disminuir las barreras identificadas anteriormente por el grupo?

3) Cómo vamos a publicar el programa? Particularmente para las mujeres que más necesitan información?

4) Cuáles son los detalles importantes de este programa? Por ejemplo, horas de sesiones, duración de sesiones, daycare, gastos de transporte, comida, materiales, publicidad.

Una persona elegida en cada grupo va a notar las respuestas de las preguntas. Una persona elegida va a presentar las respuestas y el grupo tendrá la oportunidad de comentar y hacer cambios. (1 hora)

**Actividad #9 – Lo que aprendimos - 20 minutos**

*Objetivo*

1) Afirmar la contribución de cada participante en el grupo.
2) Hacer una evaluación del taller.

*Materiales*

15 Sobres
Metodología

Se ponen todos los sobres en el centro del grupo. Cada mujer tiene papelitos. Tiene que escribir una cosa positiva de cada mujer en el grupo y poner este papelito en el sobre correspondiente (10 minutos). Después las mujeres pueden recoger sus propios sobres y si quieren, pueden compartir una cosa con el grupo. (5 minutos)

Cada mujer tendrá que llenar una evaluación. Antes, tiene que pensar y decir una cosa que aprendió durante el taller.