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# THE ROLE OF PLEI IN POVERTY LAW SERVICES

SUSAN E. McDONALD\*

## RÉSUMÉ

Cet article examine le rôle du Programme de vulgarisation et d'information juridiques, aussi connu par son acronyme, PVIJ, dans le cadre des services juridiques offerts aux personnes défavorisées. Les activités du PVIJ peuvent réagir à une variété de besoins et peuvent prendre des formes diverses couvrant une vaste gamme de paradigmes et de formats. Le présent article examine les possibilités qui existent d'utiliser le PVIJ comme outil pour faciliter la tâche de vulgarisation des connaissances juridiques, développer les capacités sociales et promouvoir le développement des collectivités dans le cadre du système des cliniques juridiques en Ontario. Dans le contexte de prestation de services juridiques aux personnes défavorisées, certains partisans considèrent le PVIJ comme un élément essentiel dans le processus d'habiliter les personnes et les collectivités défavorisées dans leur apprentissage de stratégies variées pour leur permettre de réagir à des problèmes socio légaux et économiques profondément enracinés.

L'article décrit brièvement les services juridiques traditionnels comme ils sont représentés dans la nouvelle littérature à propos des prestations aux personnes défavorisées afin de souligner le rôle que le PVIJ peut potentiellement jouer dans les prestations aux personnes et collectivités défavorisées. L'auteur examine ensuite la façon dont le PVIJ est définie et évalué dans le système de cliniques de l'Ontario, et suggère que le processus actuel ne soutient pas un rôle important pour le PVIJ dans les cliniques. Pour terminer, l'auteur place le PVIJ dans le cadre de la formation des adultes, plus particulièrement l'apprentissage informel, pour examiner les difficultés réelles auxquelles les praticiens ont à faire face quotidiennement avec leurs clients alors qu'ils essayent de résoudre les problèmes de ces derniers. Bien que cet article ne fait que lancer la discussion, il est à souhaiter, d'une part, que les praticiens, malgré leur grande occupation, apprécieront à leur juste valeur différentes formes du PVIJ, les unes tout aussi importantes que les autres, et pourront les incorporer dans le cadre de leurs prestations axées sur les personnes et les collectivités défavorisées; et, d'autre part, que les administrateurs pourront développer des méthodes plus appropriées pour évaluer ce travail important.

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## INTRODUCTION

Public Legal Education and Information, also known by its acronym PLEI, has a long history, not only in Canada, but also around the world. PLEI exists on a continuum of different needs and goals with different paradigms and formats. At one end of this continuum, PLEI is about legal information (in any number of formats) for general interest, or in response to a particular need. It can also play a preventive role where, for example, education about rights and responsibilities as a Canadian is incorporated into the school curriculum. Moving along the continuum, there is a significant role for PLEI as a tool to facilitate learning about the law, develop social capacity, and foster community development. At the far end of the continuum, PLEI is essential in empowerment of disadvantaged individuals and groups as they learn different strategies for responding to deep-rooted socio-legal and economic problems.

This paper is concerned with the far end of this continuum. In Ontario, the history of PLEI is closely intertwined with that of the community legal clinics and the practice of poverty law; in recent years, however, more and more non-governmental organizations are being called on to provide PLEI to their clients.<sup>1</sup> Studies such as the Osler Report,<sup>2</sup> the Grange Report,<sup>3</sup> and the McCamus Report<sup>4</sup> all unequivocally endorse the role that clinics play in addressing systemic issues of social injustice, with a clear mandate to undertake public legal education, along with community development and law reform. Indeed, the most recent legal aid legislation, the *Legal Aid Services Act*,<sup>5</sup> enshrines PLEI as a form of service delivery for the first time.

This paper will explore the role of PLEI in the delivery of poverty law services, specifically in the context of the Ontario legal clinic system. It will begin with a brief description of traditional legal services as presented in the new poverty law scholarship, in order to highlight the potential role of PLEI in poverty law services. Next, the author will describe how PLEI is defined and evaluated in the Ontario clinic system, which is the particular context for this paper. Finally, the author will place PLEI within an adult education framework, specifically in informal learning, in order to examine the very real tensions that practitioners face daily with their clients in addressing their needs. By doing so, it is hoped that practitioners will be able to value and accommodate different, but equally important, forms of PLEI in a busy poverty law setting and that administrators may develop more appropriate ways to evaluate this important work.

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1. See, for example, L. Gander, "The Changing Face of Public Legal Education in Canada" *Canadian Forum on Civil Justice Newsletter* 3 (2003) 4.
  2. Ontario, *Report of the Task Force on Legal Aid* (Toronto: Queen's Printer, 1974) (Chair: J.H. Osler).
  3. Ontario, *Report of the Commission on Clinical Funding* (Toronto: Queen's Printer, 1978) (Chair: S.G.M. Grange).
  4. Ontario, *Report on Legal Aid in Ontario: A Blueprint for Publicly Funded Legal Services* (Toronto: Queen's Printer, 1997) (Chair: J. McCamus).
  5. 1998, R.S.O., c. 28, s. 14(1)(h).

### TRADITIONAL LEGAL SERVICES

Poverty law is the body of law, theory, and practice focusing on areas of law, such as housing, discrimination, immigration, and social assistance, which disproportionately affect low-income and otherwise disadvantaged people. As a distinct area of law, it emerged during the War on Poverty, the civil rights and peace movements in the sixties 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 from those of the traditional middle- and upper-class client group.

The traditional model of legal services involves using the courts (or administrative tribunals or other legal mechanisms) through case-by-case litigation to enforce and/or expand rights. In an often cited article, Wexler 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.<sup>6</sup> 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.<sup>7</sup>

Clinics in Ontario, although structurally and ideologically a different model of legal services delivery, have replicated this case-by-case approach in much of their activity called casework.<sup>8</sup> The case involves the client and the lawyer or community legal worker (CLW) and other parties to the case. Lawyers and CLWs work to translate problems into legal claims and to pursue a judicial remedy that will remove or ameliorate these problems. 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.

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. In doing so, it focused on the narrative and the dynamics of power and control that are also present in lawyer-client relationships.<sup>9</sup>

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6. S. Wexler, "Practicing Law for Poor People" (1970) 79 *Yale L.J.* 1049 at 1053.

7. *Ibid.* at 1056.

8. See the articles in this journal by Michael Cormier and Lenny Abramovitz for a discussion on the traditional legal services approach in clinics. See also S. McDonald, "Public Legal Education in Ontario Legal Clinics" (MA Thesis, OISE/UT, 1998) [unpublished]; published as S. McDonald, "Beyond Caselaw: Public Legal Education in Ontario Legal Clinics" (2000) 18 *Windsor Y.B. Access Just.* 3 at 37 [Beyond Caselaw]. This research showed that clinics spend approximately 60–70% of their time on direct services, *i.e.* casework and summary advice. Lawyers spend more time on direct services than community legal workers.

9. See, for example, works by A. Alfieri: "Impoverished Practices" (1993) 81 *Georgetown Law Review* 2567; "Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative"

Proponents of this scholarship suggested that a client becomes dependent upon the lawyer very early in the relationship; this dependence is maintained throughout and reduces the ability of the clients to participate in any meaningful way. Handler, for example, argues that before one can begin to discuss the quality of participation in a relationship, the issue of power must be addressed;<sup>10</sup> 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 traditional or 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”.<sup>11</sup> Dependent individualization, learned in law school and reinforced in the profession, causes two distinct but related problems.

First of all, the lawyer–client relationship is self-contained. Despite the mandate for clinics to address the roots of problems, the lawyer–client relationship itself is devoid of the political, social, and 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.

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. Twenty-five years ago, Bellow observed, “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.”<sup>12</sup>

Thus, clients see their problems as only their problems, in a vacuum, thus reinforcing 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.

Traditional legal services work to individualize collective political and social movements, “which may further marginalize those already excluded. The principles upon which the clinics are founded (community, solidarity, consciousness raising and

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(1991) 100 Yale L.J. 2107; “The Antinomies of Poverty Law and a Theory of Dialogic Empowerment” (1988) 16 N.Y.U. Rev. Law & Soc. Change 659.

10. J. Handler, “Dependent People, the State and the Modern/Postmodern Search for the Dialogic Community” (1988) 35 UCLA L. Rev. 999 at 1000.

11. Alfieri (1988), *supra* note 9 at 683.

12. G. Bellow, “The Legal Aid Puzzle: Turning Solutions into Problems” (1977) 5:1 Working Papers for a New Society 52 at 55.

critical education), as well as the lofty legacies of feminism, trade unionism, anti-racism and other struggles get lost or muffled within traditional casework.”

It has been argued, however, that education can play a role to reduce these power imbalances.<sup>13</sup> In most poverty law literature and practice, the role of education, while at times recognized,<sup>14</sup> is overshadowed by the use of traditional legal strategies. Despite its acknowledged – and indeed lauded – role in the Ontario clinics, in reality, PLEI is also overshadowed by traditional casework. There are many reasons for the lack of importance that it is frequently given.<sup>15</sup> This paper will attempt to refocus attention on the valuable contribution that PLEI can make to poverty law services, and the paper now turns to PLEI in the Ontario clinic system.

### PLEI IN ONTARIO LEGAL CLINICS

While the current legal aid legislation in Ontario now contemplates PLEI as a distinct form of service delivery, clinics have been incorporating forms of PLEI into their work for years.

It is relatively simple to articulate some of the goals of PLEI and its role in poverty law:

- PLEI can play a citizenship-building role by fostering an educated public that understands, respects, and participates in the justice system.
- PLEI can help prevent legal problems by providing the public with a basic level of knowledge of the law.
- PLEI can help people facing pressing legal problems gain some understanding of their legal rights, supplementing legal services they often need (advice and representation).
- PLEI can enable people – those who are unable to afford legal advice or who may want to take initial steps on their own – to represent themselves (“self-help”).
- PLEI can assist in community development and organizing efforts, leading to law reform.

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13. Beyond Caselaw, *supra* note 8; see also S. McDonald with P. Cross, “Women’s Voices Being Heard: Responsive Lawyering” (2001) 16 *J. L. & Soc. Pol’y* 207.

14. G. Lopez, *Rebellious Lawyering: One Chicano’s Vision of Progressive Law Practice* (Boulder, Colo.: Westview Press, 1992); I. Eagly, “Creating a New Vision of Legal Services Practice” (1998) 4 *Clinical L. Rev.* 433; J. Gordon, “We Make the Road by Walking: Immigrant Workers, the Workplace Project and the Struggle for Social Change” (1995) 30 *Harv. C.R.-C.L.L. Rev.* 407; S. Brustin, “Expanding Our Vision of Legal Services Representation: The Hermanas Unidas Project” (1993) 1 *American University Journal of Gender and Law* 39.

15. In general, see Beyond Caselaw, *supra* note 8, and note 13. Education in North America is viewed as mainstream, stagnant, and state sanctioned. As well, it is not considered intellectually equal to the discipline of law. Further, it must be noted that 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.

- PLEI can be an instrument of social change, by facilitating the sharing of information and supporting social change.<sup>16</sup>

Yet for practitioners working each day, decisions about scarce resources, workloads, and priorities may seem to constantly challenge the rhetoric surrounding the promises of PLEI. This paper will not attempt to answer whether PLEI can ultimately succeed in the goals articulated above. One reason is that there is very little empirical research assessing the outcomes of PLEI initiatives.<sup>17</sup>

In one study, McDonald looked specifically at the role of PLEI in the Ontario clinics.<sup>18</sup> She discovered that one challenge in better understanding this role was the manner in which PLEI was (and is) documented and measured. Funding applications to the Ontario Legal Aid Plan (now Legal Aid Ontario [LAO]) required quantitative measures of activities: talks given, pamphlets handed out. This measure was required for each of the different yet interrelated activities of PLEI: community development and law reform. For example, LAO's most recently available annual report notes that in 2001 there were 1,855,501 PLEI materials, 828 community development files opened, and 452 law reform files opened. There were 15,122 casework files opened, summary advice was given to 57,872 people, and there were 119,286 referrals.<sup>19</sup>

But what do these numbers really mean? Almost 2 million PLEI materials published and distributed<sup>20</sup> sounds like an incredible achievement, but did anyone read these pamphlets, or, more important, did anyone learn anything about the law that was helpful? Was the knowledge ever used? Did it make a difference to that individual? McDonald noted that there was no mechanism in place to capture the often laborious and "tiny-step forward" work that is part of the PLEI/community development continuum. Indeed, there was no recognition of what might constitute PLEI activities, and yet at the same time community development and/or law reform activities.<sup>21</sup>

In the clinic system, administrators have compartmentalized this work into PLEI and community development and law reform, as can be seen by the reporting format in the annual report. Practitioners undertaking this valuable work recognize the interconnections between the different elements, but the value of PLEI in its different forms is lost in the measurement. It also becomes an activity that has a beginning and an end.

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16. J. Mathews, from Legal Aid Ontario conference 2003, description of "PLEI and Poverty Law Services" panel.

17. See, for example, L. Cader, *Evaluation of Public Legal Education and Information: An Annotated Bibliography* (Ottawa: Research and Statistics Division, Department of Justice Canada, 2002). Some PLEI organizations such as the B.C. Law Courts Society, undertake significant evaluations of their work, and their findings have been used to improve programs and better address needs.

18. Beyond Caselaw, *supra* note 8 at 35–37.

19. Legal Aid Ontario, *2002 Annual Report* (Toronto: Legal Aid Ontario, 2003) at 15.

20. The report does not anywhere actually describe what the figure means. I have assumed it means PLEI materials published and distributed.

21. Beyond Caselaw, *supra* note 8 at 48–59.

This paper suggests that PLEI is a process that may functionally have a beginning but certainly no end, as it forms the foundation for learning and engagement.<sup>22</sup>

To acknowledge and document this process, an informal learning framework can certainly provide guidance. By placing PLEI and its role in poverty law within an informal learning framework, the challenges facing practitioners can be accommodated in a way that maintains the value of different forms of PLEI in a busy clinic practice.

### LEARNING AND PLEI

There is little academic literature on PLEI in North America. Lopez advises lawyers “to design teaching methods that encourage ... clients to recognize and value the problem-solving operations they already have mastered.”<sup>23</sup> In a recent article, American lawyer Eagly describes the development of a community education program on workplace issues that would be accessible to the Latino immigrant community in Chicago.<sup>24</sup> She argues that education should be used more in poverty law practices. Brustin describes the Hermanas Unidas (United Sisters) project for Latin American women in Washington, DC, where women organized support groups to deal with legal and non-legal issues.<sup>25</sup> Gordon 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.<sup>26</sup>

An article by Ontario lawyer Savage, in the now defunct *Canadian Community Law Journal*, highlights the tensions facing community legal programs: individual versus group representation; casework versus organizing and education.<sup>27</sup> 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 to “counter the alienation fostered when a client places his or her problem into the hands of a professional.”<sup>28</sup> Savage describes several projects in native communities where, as a lawyer, he was teaching his clients to solve problems. This article, written more than two decades ago, is just as relevant today.

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22. See in general, *supra* note 13, “Women’s Voices”.

23. Lopez, *supra* note 14 at 79.

24. *Ibid.* Eagly.

25. *Ibid.* Brustin.

26. *Ibid.* Gordon at 435–436.

27. H. Savage, “Towards Bridging the Gap between Legal Services and Legal Education: Model Projects in Native Communities” (1978) 2 *Can. Community L.J.* 46.

28. *Ibid.* at 47.

These authors are all lawyers, or law professors, who have embraced education as an essential tool in their social justice work. The contexts and outcomes may be different, but they do recognize, as do many clinic practitioners, the valuable role that education can play. “Education,” however, can be thought of as an action done *to* people. This paper will focus on “learning,” an action done *by* people. The difference between the passive and active is important. The new poverty law scholarship focuses on the dynamics of power and control in the lawyer–client relationship. If poverty law truly has social change and empowerment as goals, the client must have the opportunity to become active and engaged in the resolution of his or her legal problems.

In contrast to the scant literature on PLEI, the body of literature on adult education and its subdisciplines is fairly extensive. For example, informal learning has been defined in contrast to formal (school-based) and non-formal (organized, non-credit) learning. Knowles introduced the concept of informal learning in his book *Informal Adult Education*, published in 1950.<sup>29</sup> In the late sixties, Tough identified the fact that adults were learning without the aid of formal institutions and educators, and his work focused on deliberate, intentional efforts to learn. Coombs *et al.* introduced the threefold learning typology (formal, non-formal, and informal) that remains in use by some academics today.<sup>30</sup> 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.”<sup>31</sup> In the early eighties, Strauss criticized the formal/informal dichotomy.<sup>32</sup> 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.”<sup>33</sup> Twenty-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 countrywide survey indicates that most Canadian adults are engaged in learning activities for an average of 15 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

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29. M. Knowles, *Informal Adult Education* (New York: Associate Press, 1950).

30. P.H. Coombs, R.C. Prosser & M. Ahmed. *New Paths to Learning for Rural Children and Youth* (New York: UNICEF, International Council for Educational Development, 1973).

31. *Ibid.* at 14.

32. C. Strauss, “Beyond ‘Formal’ versus ‘Informal’ Education: Uses of Psychological Theory in Anthropological Research” (1984) 12:3 *Ethos* 195.

33. *Ibid.* at 198.

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.<sup>34</sup>

Livingstone continues to distinguish "explicit" informal learning:

*Explicit* informal learning is distinguished from everyday perceptions, general socialization, and other tacit learning by people's 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.<sup>35</sup>

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.<sup>36</sup> The study found a wide range of learning, with approximately 90% of respondents engaged in "other general interest informal learning".<sup>37</sup> Seventy-five per cent were learning about health, 60% about environmental issues, 60% about finances, and over half about hobby skills, social skills, computers, sports, and recreation.<sup>38</sup> 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.<sup>39</sup> Garrick explores this relationship between experience and learning and argues that informal learning should be viewed as experiential learning.<sup>40</sup> Garrick notes that the five prevailing philosophies in adult education (liberal, behaviourist, progressive, humanist, and radical) and the

34. D. W. Livingstone, "Exploring the Icebergs of Adult Learning: Findings of the First Canadian Survey of Informal Learning Practices" (1999) 13:2 *Canadian Journal for the Study of Adult Education* 49.

35. *Ibid.* at 51.

36. *Ibid.* at 52.

37. *Ibid.* at 61.

38. *Ibid.*

39. L. English, "Learning from Changes in Religious Leadership: A Study of Informal and Incidental Learning at the Parish Level" (1999) 18:5 *International Journal of Lifelong Education* 385; S. Merriam & M.C. Clark, "Learning from Life Experience: What Makes It Significant?" (1993) 12:2 *Journal of Lifelong Education* 129.

40. J. Garrick, "Informal Learning: Some Underlying Philosophies" (1996) 10:1 *Canadian Journal of Studies in Adult Education* 21.

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”.<sup>41</sup>

Many PLEI activities are informal. For example, a woman learns from a friend at the grocery store that she does not have to put up with an abusive spouse and that she can seek assistance at a clinic. While the distinctions between Livingstone’s explicit and non-explicit informal learning, or informal and non-formal learning, may become blurred in practice, a framework of informal learning when applied to legal problems and solutions can provide great insights.<sup>42</sup>

A framework of informal learning would allow the particular context of poverty law services to flourish. The framework this paper proposes is one developed by Rachel Gorman from OISE/UT in her research with disabled workers.<sup>43</sup> Gorman is critical of recent moves toward documentation of informal learning in the workplace (prior learning assessment), however, which attempts to place “the learner” as “an autonomous, competitive individual” and does not address the roles that gender, class, and race play in creating disadvantage.<sup>44</sup> This view is similar to the “dependent individualization” discussed, *supra*, in traditional legal services. She further points out difficulties with assumptions that are built into theories of informal learning.<sup>45</sup> For example, informal learning is self-directed and can be undertaken at home. Another assumption is that informal learning is an individual process, thus depoliticizing learning, in much the same way as traditional legal services, which focus on individual cases, depoliticize legal issues.

In order to address these issues, Gorman has articulated a framework of three types of learning: survival learning, struggle learning, and resistance learning. This paper will apply this framework to PLEI in the poverty law context in Ontario clinics.

PLEI assessments, particularly for abused women, have been undertaken by community groups and have been funded by government. While many of these assessments do not consider the actual experience of learning, they do recognize a need for different formats of PLEI and hence acknowledge that people have different learning needs.<sup>46</sup>

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41. *Ibid.* at 31.

42. See, for example, S. McDonald, “Learning about the Law” (2002) 16:2 *Canadian Journal for Studies in Adult Education* 73–94.

43. R. Gorman, “The Limits of ‘Informal Learning’: Adult Education Research and the Individualizing of Political Consciousness” in S. Mojab & W. McQueen, eds., *Adult Education and the Contested Terrain of Public Policy*. Proceedings from the Annual Conference of the Canadian Association for the Study of Adult Education (Toronto: CASAE, 2002) at 122–27; *supra* note 16 at 126.

44. *Ibid.* at 122.

45. *Ibid.* at 123.

Research with ????? pact of trauma on learning demonstrates that there needs to be a continuum of learning strategies to respond to individual and collective needs.<sup>47</sup> For example, in times of crisis, there may be significant cognitive changes that affect the way one responds to information and support. One-on-one, individualized information sessions may be the most appropriate way to address legal issues at hand. As time goes on, there may be a greater need to feel less alone with the issues, the experience, and the legal process going on.

Another example might be when a potential client arrives at the office with an eviction notice and the lawyer or CLW sees him or her. Because the issue and the limited time to file are serious, certain essential information must be conveyed and acted upon. The client must understand the five-day limit for filing notice and the implications of choosing not to file. Information is passed along verbally, and a pamphlet might be taken home and reviewed later. Options about what can or might happen – your rights, the landlord’s rights – and immediate information are presented.

This type of PLEI is survival learning; survival learning is the method individuals employ to develop strategies to cope in a world that has been constructed to exclude them. This survival learning is about the “self” – your case, only your case, your rights, your entitlements, who will win or lose, how you will settle. This type of PLEI, which is very focused on the individual case through one-on-one learning (often orally, with individual in-person or telephone assistance) reinforces the individualization inherent in traditional legal services. It is extremely valuable, however, and needs to be acknowledged as playing an important role in addressing clients’ needs.

Practitioners in clinics will be able to imagine numerous examples in which they have provided basic information to clients because timing was critical, perhaps as a result of eviction, deportation, or similar life-altering event. Rarely is there time for the client to attend a group workshop, engage in street theatre, or attend a rally.

In research with immigrant women who had experienced domestic abuse, the research participants reported that at the time of separation or arrest they wanted individual, one-on-one information in simple, easy-to-understand-and-remember terms. This was their survival learning.

As the immediacy of the threat from their spouse faded, many participants acknowledged that learning in a group had been or would be beneficial. In some instances, such learning opportunities were available. They felt less alone with their problems; they definitely learned from others’ experiences. They suggested peer legal education and workshops. These strategies represented the next phase in their learning, called resistance learning.

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46. See S. McDonald, *The Right To Know: Women, Violence, Ethnicity and Learning about the Law* (PhD thesis, OISE/University of Toronto, 2000) at 40–49 for a summary of PLEI needs for abused women.

47. *Ibid.*

Resistance learning refers to the process by which an individual or group develops strategies to *resist* the ways that the world has been constructed to exclude them.<sup>48</sup> Resistance can be different for different people and different instances of resistance learning. For example, attending an information session or a workshop is another learning strategy. Depending upon the teaching strategies employed (for example, what Freire called “banking education”),<sup>49</sup> it can again reinforce the individualization, or this individualization will begin to break down (where critical pedagogy is used), whereupon learning can start to become collective.

Attending a support group where legal issues can be discussed (as in some victims’ groups) moves the process along the collective continuum. Victims might learn how others in similar situations asked questions of the Crown, or to ensure that their Victim Impact Statement is included. No longer is it just your case, your rights; suddenly others are similarly affected, others have also suffered. Perhaps together the group can resist or at least support one another in ways that when one is alone will never happen.

In this same research, as time moved on and the women had begun to heal, they felt the need to prevent abuse to other women like them. They wanted to engage in prevention in their community, to focus on other issues like youth crime that might occur through the cycle of violence, to help other women like themselves through organization, mobilization, and law reform.

This third type of learning is called struggle learning and refers to how a group develops an understanding of the construction of their oppression as well as counter-arguments and strategies to dismantle the oppression.<sup>50</sup> PLEI as struggle learning can build a foundation of knowledge for community members to then struggle against oppressive legislation and their application through mobilization or organization.

In the clinic tradition, *community development* and *law reform* are the terms used to describe struggle learning. As noted earlier, however, these clinic terms fail to grasp the learning that may be inherent in these different activities. If PLEI is measured only by the number of pamphlets handed out, or the number of information workshops given, there will never be an incentive to truly understand the impact of this information and education. When clinics are making choices about how to allocate their scarce resources (monies and time), PLEI is frequently overlooked. In contrast, by capturing all forms of PLEI in this informal learning framework, all educating and informing can be acknowledged.

Because such capturing has not been done before in the legal clinic system, at least not systemically, attempts to do so will need to be tried and improved upon until we get it right. One example to look to is health care. For example, health practitioners (nurses in the hospital, public health nurses, midwives, family doctors) record their educa-

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48. *Supra* note 43 at 126.

49. P. Freire, *Pedagogy of the Oppressed* (New York: Seabury, 1970) at 95–105.

50. *Supra* note 43 at 126.

tional work with newborns and their parents.<sup>51</sup> The baby's medical file contains a checklist of issues that are discussed at different checkups such as feeding, sleeping, and safety. These are the issues that need to be addressed at these times (birth, one month, six months). The checklist provides reminders to the busy practitioner and a simple way to record the information imparted. There is also room for further notes or questions. Including checklists such as this in the file for different areas in poverty law, such as landlord and tenant or social assistance, might also provide reminders about the importance of PLEI and allow clinics to also capture this very important survival learning that is often present during the client-lawyer or CLW meetings.

For new parents, there is also a plethora of information available in different formats: pamphlets, books, videos, workshops, resource centres with public health nurses available to answer questions, and phone lines. PLEI resources are also available on many topics in different formats. More could always be done, but it will be important to evaluate the effectiveness of these resources. This review can be conducted through well-designed and appropriately resourced evaluations.

Resistance and struggle learning may be more difficult to capture because of the nuanced nature of the activities and the ultimate outcome, which might be different for different individuals. In many situations, clients will remain active only through the survival learning stage. Once problems are resolved, they will go back to their busy lives.<sup>52</sup> A few will remain engaged if opportunities are available. Truly skilled and experienced practitioners will know how critical timing is to successful PLEI initiatives. In-depth, qualitative research should be able to capture the subtleties of this work. Good case studies should be highlighted for other clinics, and workshops and resources should be provided to enable all those in the clinic system to understand the benefits of documenting and evaluating this valuable work. Without being able to articulate the outcomes, it becomes difficult, if not impossible, to defend all forms of PLEI when resources are scarce.

## CONCLUSION

In sum, Public Legal Education and Information must be acknowledged as a vibrant aspect of poverty law services in Ontario legal clinics and should be thought of as a process, with different stages of learning. PLEI can move learning about the law beyond the individualization that is inherent in traditional legal services.

Administrators need to better understand PLEI as a learning process and develop a documentation system that reflects it. Simple quantitative measures of pamphlets handed out and workshops given do a disservice to the depth and breadth of many

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51. Prevention in health care is a much discussed and funded area, particularly for obesity, drug use, fitness, etc. This discussion does not reflect the results of any research; rather, the personal experience of the author and likely that of other first-time parents.

52. Gordon discusses this tension in her work wherein no legal remedies are offered to clients. *Supra* note 9.

PLEI initiatives undertaken in the clinics. While the work may be captured through the number of community development or law reform files opened, such artificial divisions negate the learning that is carried out throughout these overlapping activities.

The informal learning framework proposed herein attempts to capture individual learning, which is itself valuable as survival learning. When clients engage in collective and political learning, resistance and struggle learning will help to move legal services beyond the traditional legal services model. This could be PLEI's greatest service to poverty law.