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Susan McDonald

Pamela Cross

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WOMEN'S VOICES BEING HEARD: RESPONSIVE LAWYERING

SUSAN MCDONALD WITH PAMELA CROSS*

RÉSUMÉ
La formation des immigrantes ayant été victimes de violence familiale présente de nombreuses difficultés. Dans cet article, l'auteur soutient que l'exercice du droit en matière de pauvreté devrait mieux tenir compte des besoins de formation des immigrantes hispanophones victimes de violence en milieu familial, comme de ceux de tous les clients d'ailleurs. La collaboration de la population avec les établissements d'enseignement est utile et peut s'avérer favorable à cette cause. L'article décrit à cet égard une initiative de recherche féministe ayant nécessité la participation d'immigrantes hispanophones de Toronto qui ont déjà subi la violence familiale. Le contexte de la recherche et la méthode employée, de même que les résultats obtenus et les mesures qui ont été prises en réponse à ceux-ci font l'objet de la première partie. Dans un deuxième temps, on conçoit à partir de l'issue de la recherche un nouveau modèle d'exercice du droit de la pauvreté axé sur le client.

INTRODUCTION
Around the world, women who experience domestic abuse face difficult and confusing decisions if and when they encounter the legal system. For immigrant women in Canada, the legal system poses additional challenges: English or French may not be their first language; they may not be familiar with the law and may distrust or fear the legal system and the individuals, such as the police, within it; they may be isolated from family and friends; women may not have a permanent immigration status and fear deportation; and there is a fear of international kidnapping of their children. There may be not only a conflict of laws, but also a conflict of cultures and values.

Addressing the learning needs of women who have experienced domestic abuse presents many challenges for the women themselves, as well as for service providers. This paper argues that poverty lawyering should and can be more responsive to the learning needs of Spanish-speaking immigrant women who have experienced domestic abuse, and indeed to all clients' learning needs. Collaboration between academe and community is valuable and can assist in efforts to achieve that end.

* Susan McDonald is a lawyer and has recently finished her PhD in Adult Education from the Ontario Institute for Studies in Education of the University of Toronto. Pamela Cross is a feminist lawyer from eastern Ontario and is the legal director of METRAC (the Metropolitan Action Committee on Violence Against Women and Children).

1. This paper is adapted from S. McDonald, The Right to Know: Women, Ethnicity, Violence and Learning about the Law (Ph.D. Thesis, Ontario Institute for Studies in Education of the University of Toronto, 2000) [unpublished].
This paper presents one such collaborative effort: a feminist participatory research project with Spanish-speaking immigrant women in Toronto who had experienced domestic abuse. Researchers at the Ontario Institute for Studies in Education of the University of Toronto (OISE/UT) collaborated with the Women's Program of the Centre for Spanish Speaking Peoples in Toronto and METRAC (Metropolitan Action Committee on Violence Against Women and Children) on the project, which began in 1998.

This paper is divided into two parts. The first part will describe the first phase of the research project and the attempts to achieve some of the goals of the second phase. The background, research process, findings, and the resulting action will be presented. In the second part, a new paradigm of poverty law—responsive lawyering, which requires a client-centred focus—is developed from the project results.

PART I: THE RESEARCH PROJECT

Background

Domestic abuse crosses race, class, gender, and national boundaries. In Canada, national studies have increased understanding and acceptance of the prevalence and seriousness of domestic abuse. Yet there have been no statistically accurate studies on the prevalence of domestic abuse in immigrant communities, such as the Spanish-speaking community in Toronto.

The primary community partner in this project was the Centre for Spanish Speaking Peoples, which was established in Toronto in 1973. It is the only multi-service centre addressing the needs of only this community in the Greater Toronto Area. The centre hosts a legal clinic, which provides legal assistance to the low-income Spanish-speaking community in the areas of employment, housing, employment maintenance, and immigration. It does not provide criminal or family law services, which have traditionally been covered by the private bar and the judicare model of legal aid in Ontario. In its 1999 funding application, the clinic sought a staff family lawyer and was turned down.

The Women's Program was established in 1981. It offers support to Spanish-speaking women who suffer abuse in their relationships with their partners, creates awareness about

3. For example, in 1993, Statistics Canada released the results of its Violence Against Women Survey, which was the first and largest of its kind, with 12,300 women interviewed across Canada (Statistics Canada, “The Violence Against Women Survey” The Daily (18 November 1993) 1). The study found that 29% of ever-married women (including those in common-law relationships) have been subjected to violence at the hands of a marital partner at some point in the relationship (ibid. at 4). One criticism of this study was that it did not reach women who speak neither French nor English, and thus the results do not reflect the prevalence of violence against women who speak other languages, such as the women who have participated in this project. See S. Davis-Barron, “Survey Hailed as Best Ever on Violence against Women” The Toronto Star (18 November 1993) A16.
violence against women, and sensitizes the community at large. 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. In 1998–99, 550 clients were served.

The legal needs of the women who use the Program are immense, but the Legal clinic, because of the structure of and limitations to legal-aid funding in Ontario, does not provide any family or criminal-law services. The staff of the Women’s Program have not been specifically trained to address these legal needs (although they do have experience and knowledge), and in many instances the needs of their clients are met only partially or not at all.

The other community partner in this project was the Metropolitan Action Committee on Violence Against Women and Children (METRAC). This organization was founded in 1985 as the result of a public task force that had been established to look at women’s and children’s safety. Since its establishment, METRAC has been promoted the rights of women and children to live free from violence and threats of violence by challenging society’s acceptance of violence. It also works to bring about improvements in support services and advocacy systems and to change policy and legislation. METRAC works with municipal, provincial, and federal governments, as well as with other individuals and organizations to promote change. METRAC is an educator and advocate and is committed to research that uses the life experiences of women and children to help governments and the public understand violence against women and children.

The Research Process

Participatory research “fundamentally is about the right to speak.” Feminist participatory research evolved from participatory research and involves investigation, education, and action. 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.

An underlying assumption of this study is that there are dynamics of power and control in the conception and delivery of social and legal services and in professional/client


6. The project was initiated by Susan McDonald, a doctoral student, under the supervision of Shahrazd Mojab, of the Department of Adult Education and Community Development at OISE/UT, in the fall of 1998. It received funding from the Centre for Excellence in Research on Immigration and Settlement—Toronto (CERIS) and from the New Approaches to Lifelong Learning Research Network (NALL) of OISE/UT.


relationships. By using methodology that would facilitate the participation of the women in the design and implementation of responses to address their needs, it was intended that this participation would also help break down these dynamics. Evaluation of this underlying goal, however, was not built into the project.

Drawing upon relevant work in Chile,9 the research process was conceptualized as one that would move from individual (meaning one-to-one, researcher and participant) to collective (meaning the group of participants and researcher) interaction and data collection. This process was designed to address the needs of the women, who were unlikely to want to talk freely about their experiences or to trust strangers immediately. While the elements of feminist participatory research are collective processes, the process began with individual interviews in order to develop trust between the researcher and the individual woman.

Consultation with the staff of the Women’s Program of the Centre for Spanish Speaking Peoples and research led to the development of the objectives for the study.10 The staff believed that a traditional focus group would not be an adequate method for the collective inquiry. They suggested that the women would need a longer time to trust one another in order to talk openly and work well together in a group. They also suggested that a different setting, away from the city and organizations, would provide a more relaxed atmosphere. So a three-day retreat and workshop11 was designed to address these needs.

This project was divided into two phases to better incorporate all three elements of feminist participatory research. The goals of the first phase of the project 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 impede or enhance learning, such as the social location of the women, pedagogy, and the impact of trauma on learning. This phase primarily involved investigation. The goals of the second phase of the project were to develop and implement the participants’ ideas. Action and education were the primary components of this phase.12

Working with the staff of the Women’s Program, a total of 14 women were interviewed in the summer of 1999.13 Many, but not all, of the women were clients or former clients

11. The workshop was designed as a full day of group activities which followed a problem-defining and -solving format. There is little literature on the “workshop” as a feminist research technique. See S. Reinhartz, Feminist Methods in Social Research (New York: Oxford University Press, 1992), for an excellent review of feminist research methods. See J. Horsman, Too Scared to Learn: Women, Violence and Education (Toronto: McGilligan Books, 1999) at 23-27, for references to the “workshop.”
13. A comprehensive ethical review was undertaken by the University of Toronto, and the approved
of the Women’s Program. The women were from a variety of countries in South and Central America, as well as the Caribbean. Their ages ranged from mid-twenties to mid-sixties. All but one were married, and all but one had children and some had grandchildren. Most had permanent residency or citizenship status in Canada. Their education and class backgrounds varied widely. The majority were receiving social assistance, although some were working. There was great diversity within the socially constructed group “Spanish-speaking immigrant women.”

The retreat and workshop took place at Hart House Farm, a 150-acre property located one hour northwest of Toronto. The first day was spent getting to know one another, swimming in the pond, and enjoying the outdoors. For many of the women and their children, this was their first time out of the city since their arrival.

During the workshop, a variety of participatory activities allowed the women to design a legal-education and information program to address their needs. While maintaining the confidentiality of the data collected during the individual interviews, the workshop and activities were developed to reflect those identified needs. Hence, after introductions and the opportunity to talk about expectations, a group agreement was developed to be used for that day, based on respect, trust, and confidentiality. The women were then led through an exercise designed to understand differences and similarities, as well as privilege and discrimination. The next activity identified barriers in accessing the legal system—in theory and in practice. After a break for lunch, there were two more exercises. The first was to identify the women’s legal-information and education needs, and the second was to design a program that would address these needs.

All the activities were grounded in the women’s experiences, and the women had enough time to share and learn from one another. In this way, the workshop fulfilled educational and investigation purposes. The educational component of participatory research can give participants a way to understand social problems and their causes, and ways to overcome them. Different women shared the facilitation of the smaller groups. Susan McDonald facilitated the larger group activities, and in doing so, reinforced her role as leader and researcher.

Following the retreat, the women received two copies of their transcript and were given the opportunity to make changes and provide feedback. Women also received photographs and notes taken at the retreat. A follow-up meeting and dinner with the women and their children took place in the fall of 1999.

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14. For a good discussion of the social construct of “immigrant woman,” see R. Ng, *The Politics of Community Services* (Halifax: Fernwood Press, 1996). Ng argues that categories and definitions are constructed and imposed by the dominant group: “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 member of a visible minority.
Research Results
The individual and collective inquiry produced a significant amount of data on a variety of themes: power in domestic relationships, the nature and form of abuse, the women's experiences with the legal system, and their learning strategies. Data were also gathered to identify the legal-education and information needs of Spanish-speaking immigrant women who have experienced domestic abuse and to determine how best to address these needs with consideration for factors that could impede or enhance learning: the social location of the women, pedagogy, and the impact of trauma on learning. This section will provide a summary of these results and a discussion about how they relate to other studies in this area.

Legal Information and Education Needs
Many studies have been completed on the legal-information and education needs of a variety of groups. In some of these studies, the focus has been on how to get women to use the criminal legal system. 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."

Few of the studies on public legal information and education have asked participants how they want to learn. 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—using materials and workshops that employ "banking" education—and that this works for everyone.

15. For complete research results, see McDonald, supra note 1, c. 4.
18. Supra note 16 at 7.
19. For example, supra notes 16 and 17.
Law Courts Education Society is one notable exception to this assertion. Their 1994 study specifically sought out different learning approaches from different ethnic communities in British Columbia.\(^{21}\) As well, MacLeod and Shin address strategies for the distribution of information and other formats for learning.\(^{22}\)

The literature on poverty law is relatively quiet on the importance of education in developing alternative legal strategies. Savage describes several projects in native communities where, working as a lawyer, he was teaching his clients to problem solve.\(^{23}\) 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.\(^{24}\) Brustin 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.\(^{25}\) Gordon describes the challenges of establishing the Workplace Project, a centre for Latin American workers on Long Island, New York.\(^{26}\) This small selection provides a beginning and an important source of inspiration and reflection for this project.

Throughout this project, there has been an assumption that public legal education and information cannot replace legal representation. That assumption remains important, but the role of education and information does increase where there is limited access to legal representation, or none at all. In the McCamus Report on legal aid in Ontario, Charendoff, Leach, and Levy 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.\(^{27}\) 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.\(^{28}\)

The data revealed a number of important findings in addition to the answers to the questions posed. First of all, when defining the problem with the Women’s Program, the staff were adamant that the women needed more representation. This is true, but the data demonstrated that traditional legal representation\(^{29}\) did not enhance women’s

\(^{21}\) *Comparative Justice, supra* note 16.

\(^{22}\) *Like a Wingless Bird, supra* note 16.


\(^{28}\) *Ibid* at 555.

\(^{29}\) The authors refer to traditional legal representation (or services) as that of an individual, case-by-case approach, using litigation and other legal tools and remedies to respond to specific legal problems. See S. Wexler, “Practising Law for Poor People” (1970) 79 Yale L.J. 1049.
learning and sense of empowerment. In some cases, the representation provided had a negative impact on the women and reinforced their own feelings of inadequacy and guilt from the abuse suffered. 30

Second, the development and implementation of the women’s suggestions represent great challenges. At the same time, the findings strongly indicated that representation is only one aspect of the legal needs of the women involved in this study. These women were confronting legal issues that would have a tremendous impact on their lives (criminal charges against their spouses, custody and access of their children, immigration status), and few fully understood their rights, their responsibilities, and their choices. All of the women wanted to learn about the law, and they wanted to do so in a manner far different from what may occur when meeting with a lawyer individually.31 As a result, the researcher argues that the learning needs of these Spanish-speaking women who have experienced domestic abuse, and those of other women who have experienced abuse, cannot be met through a traditional model of legal services.32 The excitement of these findings lies in the women’s ability to design solutions to meet these learning needs and their willingness and strength to be part of the process.

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 women in the study identified these needs, and the results for this question support what other studies have found.33

Two areas that have not been highlighted in previous studies are understanding lawyers’ roles and responsibilities, and young offender law. With respect to the latter area, the women here were thinking ahead for their children, believing that education and information could be preventative. These results are not surprising, given the nature of their legal issues. In sum, the second important finding is that the women themselves identified their needs and designed strategies to address them.

A third important finding is that the legal profession has been so slow to recognize and, more important, to respond to the overwhelming needs that have long been identified.

Fourth, these women do not see the criminal justice system as a viable response in most cases. Several years ago, Martín and Mosher suggested that the criminal justice

30. While a divorce or sole custody were often liberating ends for the women interviewed, their experiences with the legal system and lawyers were both positive or negative. In some situations, the women felt very confused and isolated during their contact with lawyers. For others, they felt disconnected from what was happening. Two women stated that they felt comfortable with their lawyers and understood what was happening. For full results from the study, see McDonald, supra note 1, c. 4.

31. Ibid.

32. For a full discussion of this argument, see “Beyond Caselaw,” supra note 10.

33. Supra note 16. The women asked for more materials (written and audiovisual) in Spanish. They wanted 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.
system may not be the appropriate response for many women.\textsuperscript{34} This study did not focus in particular on the criminal justice system, 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, Martin and Mosher's argument remains valid.\textsuperscript{35}

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. It is suggested that the criminal justice system should remain a viable option for women.

A fifth important finding is that women's learning needs include 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 said that lack of information contributed 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 should be distributed in as many ways as possible, including by word-of-mouth.

In sum, there were five key findings from the data collected during the first phase of the project:

1. traditional legal representation can be disempowering for immigrant women who have experienced domestic abuse;
2. immigrant women can make invaluable contributions to designing both legal and non-legal solutions in response to challenges;
3. there is a lack of awareness in the legal profession of the need for legal information and appropriate delivery models;
4. the criminal justice system does not serve all victims of domestic abuse well; and,
5. immigrant women (and other women) who have experienced domestic abuse require a trustworthy source of legal information, other than government sources.

\textsuperscript{34} D. Martin & J. Mosher, "Unkept Promises: Experiences of Immigrant Women with the Neo-Criminalization of Wife Abuse" (1995) 8 C.J.W.L. 3.

\textsuperscript{35} Ibid.
Strategies for Change

The second goal of the research was to determine how best to address these needs with consideration for factors that could impede or enhance learning. During the workshop, the women worked together to design strategies and they generated many ideas, several of which are briefly described below.

**Legal Education Workshops**

The women identified the use of workshops as an important component for their learning about their rights. They stressed participation and experiential learning. For example, women who have dealt with the legal system should be involved in both the planning and the actual workshop. Those with knowledge (lawyers, others) should also be involved. The language of instruction should be Spanish, and there should be plenty of supporting materials, in Spanish, both printed and audiovisual.

The practical details (childcare, refreshments, transportation) should facilitate the attendance of all women. For example, where there are young children not yet in school, it will be important to have childcare workers who speak their language. Or for women who are receiving social assistance, transit fares need to be provided. As well, where workshops take place over the dinner hour, a full meal must be provided for the children. Involving the women in the planning can ensure that their realities are taken into consideration.

**Peer Support Program**

A common theme running through the data was the need for support throughout any type of change for the woman. In particular, the women stressed the importance of support from women who already have experience with the legal system. They envisioned a program where Spanish-speaking women who had experienced domestic abuse would be trained in basic legal information and other resources in order to provide peer support to women going through the legal system, particularly for family law issues.

**English as a Second Language Law Curriculum**

For many of the women, learning English is important, and so while they requested that workshops be conducted in Spanish, many also attend English as a Second Language (ESL) classes; many are required to attend classes as a condition of receiving social assistance. The women suggested the incorporation of legal content into the ESL curriculum.

**Printed Materials and Translations**

The women asked for printed legal materials to be published in Spanish, particularly in family law. Areas of law that were of particular concern to the women included the legal profession and legal aid; family law, including child and spousal support, custody, access, separation, divorce, division of property, and particular issues for immigrant women (taking children out of the country, international agreements that would be applicable); immigration law, including sponsorship breakdown, refugee claims, humanitarian and compassionate applications; and young offender law.
The women identified other areas of law that were not priorities, such as criminal law. A minority of the women who participated had had contact with the criminal justice system. Of these women, all had had access to the Victim Witness Assistance Program and had felt they had adequate information at the time. Other legal issues arose such as change of name, methods to incorporate a small business, and wills.

**A Directory of Lawyers for Immigrant Women Who Have Experienced Abuse**
The women and the Women's Program spoke consistently of difficulties in retaining lawyers, particularly in family law. They suggested the compilation of a directory specifically for women and immigrant women who have experienced abuse. The women wanted to be able to access the directory themselves. They did not see computer technology as a solution.

The women expressed their learning needs and strategies with great clarity. While they were often unsure 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.\(^{36}\)

**The Community Leadership Project**
As the project moved ahead, the challenges inherent in the action component of feminist participatory research become increasingly apparent, and the transfer of leadership from the researchers to others was difficult.\(^{37}\) In the months after the follow-up meeting, it became evident that leadership remained concentrated in the university, and there had been no transfer of the project to the community (an ultimate goal of both the project and of feminist participatory research). In order to facilitate this transfer and develop leadership in the women participants, the Community Leadership Project was developed.\(^{38}\)

The project consisted of five workshops held weekly at the Ontario Institute for Studies in Education of the University of Toronto in June and July 2000. These workshops were developed by the Department of Adult Education and Community Development in consultation with the participants themselves.

The project was grounded in an understanding of anti-racism and feminism. The language of instruction was English, but with an understanding that English is a second (or third or fourth) language for these women. Four women participated and worked on specific problems and projects for their communities, so that by the end of the training, they understood a number of skills necessary for leadership. Topics covered included writing a proposal, funding sources, defining community needs, group facilitation and support, outreach, and organization strategies. As well, the women received resource materials that they could use for future reference. All costs of the

\(^{36}\) The project was presented by researchers with Women’s Program staff member Maria Rosa Maggi, at the CERIS National Conference in March of 2000 in Toronto. The discussion focused on the challenges of partnerships between academe and community.

\(^{37}\) See in general Maguire, *supra* note 8.

\(^{38}\) Funding for the Community Leadership Project was provided by NALL.
workshops (materials, transportation, and refreshments) were covered, including a stipend for participants.

The women also requested the opportunity to become familiar with organizations that work in the area of violence against women. As a result, the group visited METRAC—The Metropolitan Action Committee on Violence Against Women and Children—as well as The Victim Services Program of Toronto. The women began to participate on the Community Advisory Committee for Justice Workshops at METRAC and voiced the need to develop legal workshops specifically for Spanish-speaking women.

The women were required to organize a meeting in their community, and this meeting took place at the end of July 2000. The women coordinated dinner and childcare, and facilitated the meeting during which the legal workshops and the peer-support program ideas were discussed. METRAC attended to discuss the legal workshops, and women provided input on time of day, length of the sessions, location, topics, and format.

Evaluations of the Community Leadership Project indicated that the women found the format, topics, and overall goals of the training invaluable, although they requested that it be longer. The Project definitely provided a mechanism to facilitate the transfer of control of the overall project to the women themselves.

The METRAC Workshops

Although METRAC has not traditionally provided direct services, it first offered a series of legal information workshops in 1999 in response to increasing calls from women who needed legal information and representation. In evaluating the first series of workshops, the Community Advisory Committee, which was established with representation from different community organizations serving women, felt it was important to expand the sessions to improve accessibility for women from different cultural and language backgrounds.

METRAC had an established working relationship with both the Centre for Spanish Speaking Peoples and the OISE/UT project. The women from the Community Leadership Project joined the committee and volunteered their time and efforts to develop workshops for their community. It was agreed that METRAC would act as the legal, logistical, and financial resource, with the Spanish-speaking women taking the lead in organizing and facilitating the workshops.

Meetings were held over the summer with representatives from the Community Leadership Project, METRAC's legal director and workshop co-ordinator, and the OISE/UT researcher. The women developed the curriculum and format for the workshops, and METRAC provided the legal content. The women chose the topics based

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39. Two of the women presented their thoughts on the project at a conference at OISE/UT in the fall of 2000.

40. All financial resources were provided by METRAC, which received a grant from the Law Foundation of Ontario as well as its ongoing City of Toronto funding. These resources included providing a light meal, child care, and transportation, at no cost to the workshop participants.
on the findings from Phase I, which included custody and access, child support, criminal harassment, methods to find a lawyer, and immigration issues.

The workshops were presented in Spanish with METRAC's legal director in attendance to act as a legal resource. There were skits, role playing, quizzes, and discussions that began with the women's own experiences, all facilitated by the women from the Community Leadership Program. The participants were the ones doing most of the talking, with the facilitators ensuring that legal information was accurate.

In general, evaluations by the participants were very positive. Women felt that the material presented was relevant, accurate, and accessible. They were pleased to have material they could take away with them, for their own use and to share with other women who had been unable to attend the workshops. The workshops were highly interactive, and participants appreciated the opportunity to share their experiences with others.

This project entailed a number of challenges, among which language was paramount. Although a representative from the Community Leadership Project sat on the Community Advisory Committee to provide input from the other women in the program and the women themselves designed the curriculum, some individual committee members were highly critical of the project for not being appropriately Spanish-driven. For instance, the lawyer who presented the legal information at the workshops was a white North American woman who spoke good Spanish and who had worked closely with this community of women for some time. Some committee members felt the legal facilitator should have been a Latin American woman. As well, as a result of financial constraints, not all workshop materials were produced in Spanish.

Workshop organizers felt the criticisms were valid and must be addressed in future planning. It was also felt, however, that an initial attempt to develop this kind of community outreach was important and should continue, despite the shortcomings. If these workshops are to be continued, and the evaluations of the participants and organizers would indicate support for this, a number of key areas to focus on have been identified:

- increased availability of Spanish written material;
- sufficient funding for translations by qualified translators;
- other topics of particular interest to this constituency of women (e.g., child protection law, other immigration issues, young offender law); and
- Latin American lawyers who can assist with workshop facilitation.

**SUMMARY**

The first part of this paper has described a feminist participatory research project with Spanish-speaking immigrant women who have experienced domestic abuse. In the first phase, researchers undertook individual and collective investigation that generated data on several themes. The women identified their legal-education and information needs and methods to best address these needs. The women then engaged in the
Community Leadership Project, which facilitated the transfer of control of the development of the legal-education workshops to the participants. The women collaborated with METRAC, and developed and ran a series of legal-education workshops that responded to the expressed needs of women in their community.

PART II: RESPONSIVE LAWYERING: A NEW PARADIGM OF POVERTY LAW

The second part of this paper argues that, in order to accommodate the women's learning needs, a new paradigm in poverty law is required. This paradigm is developed from the specific results of this study and will be described with specific reference to the women who participated in 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.

This paradigm, responsive lawyering, requires three significant shifts in poverty law, which occur on different levels of theory and practice. First of all, the definition of poverty law itself must shift to encompass gender, race, ethnicity, sexual orientation, disability, and other identities that disadvantage individuals and groups, in addition to the class analysis that has permeated theory and practice since the 1960s.41 This shift in analysis has begun,42 but must be furthered to ensure that legal-aid policy and practice incorporates such inclusive analyses.43 Second, there would be a shift from a reliance on traditional legal tools, which are oriented to legal content,44 toward a process of meaningful learning and participation. Third, responsive lawyering requires a shift from a focus on experience with the legal system to a focus on the client and her or his experience.


43. See infra, note 56.

44. In Ontario, along with casework, poverty lawyering at the community legal clinics can involve public legal education, community development, and law reform.
Part II of this paper begins by presenting the challenges for poverty law in legal aid in Ontario. In the second section, the results of this study demonstrate the need for the second shift. In the next section, the importance of a shift toward a client-centred focus is explored. Finally, a model for “critical legal education” is presented, which facilitates responsive lawyering in practice.

**Challenges for Poverty Law**

In Ontario, poverty law and lawyering for the most part is practised by specialty and community legal clinics, which were first established in the early seventies. The clinic model marked a dramatic shift in thinking in poverty law by recognizing that the traditional model of legal services could not 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. Clinics, however, are fundamentally limited by their state funding, which dictates what they can and cannot do. In practice, education is often not a priority, when compared to individual casework. Another limitation that is important to this study is that most clinics in the province do not provide family law services.

It is the private bar in Ontario that has been almost exclusively responsible for criminal and family matters. The private bar delivers a traditional model of legal services that focuses on individual casework, resolved by litigation or alternative dispute resolution between parties. The same is true for criminal legal services. The women in the study overwhelmingly identified family law as their main concern. Immigration and refugee issues were also identified, as well as Legal Aid and the legal profession, and young offender law (criminal law).

Margulies points out that domestic abuse is “almost invisible in poverty law and lawyering,” and this neglect comes from two dichotomies, both false. First, 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

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46. For early poverty-law scholarship, see, for example, *supra* note 29.

47. See McDonald, Beyond Caselaw, *supra* note 10.

48. Blazer *supra* note 41.

49. McDonald, Beyond Caselaw, *supra* note 10 at 37-42.

50. There are a few exceptions to this where the private bar cannot meet the community’s needs for representation in family law, such as Keewaytinok Native Legal Services in Moosonee, or Simcoe Legal Services Clinic.

51. Margulies, *supra* note 42.
focused on the public issues of state and the administration of entitlements. This has continued.

The second dichotomy is instrumental versus affective lawyering. "Instrumental lawyering" is using "efficient" lawyering techniques to process the most cases possible. In contrast, "affective lawyering" requires connection and development of interpersonal relationships between 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. In the past decade, feminist legal scholarship has challenged these dichotomies and the lack of gender in poverty-law scholarship in general.

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. One reason may be 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 recently enacted Legal Services Act reaffirms that the foundation for the delivery of family and criminal law will be through the private bar. 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 whose needs must be addressed.

In general, one can argue that to focus on the differences in a disadvantaged group risks creating stigma; yet to ignore the differences perpetuates the group's subordination. 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," 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. As a result, Spanish-speaking and other

53. Crenshaw, Horsburgh, Meier, Schneider, supra note 42.
54. R.S.O. 1998, c. 26, was passed in the Ontario legislature on December 14, 1998.
55. See Crenshaw, supra note 42.
56. For example, currently there are no staff in the Policy Division of Legal Aid Ontario with any working experience in violence against women or immigrant women. (Nye Thomas, Policy Division, Legal Aid Ontario, and Pamela Cross, legal director, METRAC, Toronto, conversation March 16, 2000). Another example is the change in accessibility to the Lawyer Referral Service. The Lawyer Referral Service will give individuals the name of a lawyer at no cost. In the fall of 2000, the service adopted a 1-900-565-4577 telephone number, which charges $6 to an individual's phone bill. The
immigrant women who have experienced domestic abuse in Ontario may receive traditional legal representation from the private bar in family-law issues.\textsuperscript{57} It is argued that this traditional legal representation does not address women's learning needs.

Margulies argues for a new paradigm of poverty law to incorporate the representation of domestic violence survivors.\textsuperscript{58} He does note that introducing domestic violence into poverty lawyering risks creating a 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.\textsuperscript{59} 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.\textsuperscript{60} 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.\textsuperscript{61} Access must move beyond the 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 that every woman in this study articulated as a primary need, but was never realized. One woman 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."

\textsuperscript{57} The Barbra Schlifer Commemorative Clinic is a notable exception. This clinic is located in Toronto and provides family, immigration, and criminal legal services, as well as counselling and translation.

\textsuperscript{58} Margulies, \textit{supra} note 42.


\textsuperscript{60} Margulies, \textit{supra} note 42 at 1092.

\textsuperscript{61} \textit{Ibid.}
The third element—voice—involves dynamic relationships. A client will be a member of 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 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 women isolated. Another woman in the group told the researcher that she did not want anyone in the group ever to 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.

Building on These Challenges
Margulies argues that a commitment to access, connection, and voice can facilitate the integration of domestic violence into the practice of poverty law. The results from this study suggest that additional elements are necessary if lawyering is to address the needs of immigrant women who have experienced domestic abuse. The addition of these elements makes up the second shift required for responsive lawyering.

First of all, while Margulies validates the knowledge gained from women’s experience (through consciousness-raising groups), 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. Learning about the law that is responsive to clients’ learning needs plays little role in the theory or practice of poverty law.

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. The knowledge that 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 that 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 being as important as, for example, the legal options upon separation.

62. Ibid. at 1004.
63. Ibid.
65. Schneider, supra note 42.
The women also 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.

In contrast, METRAC and other grassroots community-based organizations can respond to this type of critical questioning and can provide legal information that is accurate and reflects the perspectives and experiences of women in violent situations. 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 can provide a critical analysis of the law's impact on the women. Thus, a client's learning needs and learning strategies, which could also be called the client's learning process, constitute the first element that must be incorporated into a new paradigm of poverty law.

Second, addressing issues in the lawyer/client relationship is important in poverty lawyering. Adopting new styles of lawyering or client interaction does not, however, fundamentally alter the role of the lawyer in the provision of legal representation. Margulies' paradigm for survivors of domestic violence 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 of client-centred representation initially evolved from Carl Rogers, a therapist. It attained 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. Client-centred representation implies that lawyers should work with clients in a manner that allows clients to make their own decisions.

The lawyer/client relationship has been the main focus of critique in the "new poverty law scholarship." In order to truly alter the power imbalance inherent in the

67. Margulies, supra note 42.
71. See, for example, Alfieri, supra note 52; A. Alfieri, "Reconstructive Poverty Law Practice: Learning
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-centred representation might well be a limited liberation indeed. Mitchell provides a stark description of the contradictions that present themselves when client-centred representation is put into practice.\textsuperscript{72}

Throughout the workshop, the women stressed the importance of their participation in any solution to address their needs. Their participation has not been facilitated by the current legal system. In general, the participation of the disadvantaged has been limited or non-existent in our capitalist, democratic society.\textsuperscript{73} Race, culture, language, and resource deprivation pose challenges to full participation for many communities in Ontario. Despite these challenges, the second element necessary for the new paradigm is meaningful client participation, to reduce the concentration of power in the legal system (the lawyers, the courts, the legislation, and the process).

Margulies questions the absence of domestic violence in poverty law and introduces a paradigm that would incorporate domestic violence through a commitment to access, connection, and voice. The results from this study demonstrate that two additional elements are necessary for any such paradigm. The first element (the client's learning needs and strategies) and the second (the client's meaningful participation) require the third shift in poverty law, away from the legal system and toward a client-centred focus.

**A Client-Centred Focus**

In this section, the rationale for a client-centred focus is developed further. 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' needs become the starting point for poverty lawyering. Clients may have their own understanding of their needs, which must be respected, and they may also have their own strategies to address these needs, which can be facilitated by critical legal education.

While the roles of lawyers and other professionals remain important, this paradigm shifts the focus to the clients, to ensure that their learning and their participation are meaningful. This different focus is important for three reasons. First, it acknowledges that the women (and other clients) themselves are and should be active players in their legal experiences. As Lopez notes, "[s]ubordinated people can and should claim

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\textsuperscript{72} Mitchell, \textit{supra} note 70.

\textsuperscript{73} Margulies, \textit{supra} note 42 at 1101.
expertise in the culture in which they, the law, and their difficulties co-exist."  

Second, this client-centred focus fulfills 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. Already the women have increased their options by having participated in the project and by 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 about 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 about 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 primarily 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. It has been suggested 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 the one proposed into their practice.

**Critical Legal Education: A Model for Meaningful Learning and Participation**

This proposed paradigm is built upon the results of this study, where the women’s learning strategies and their participation in the design and implementation of solutions to their defined problems were central. As noted in the introduction, responsive lawyering introduces three shifts in the theory and practice of poverty law. This section will first discuss the importance of understanding client needs, a process that can

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74. Lopez, *supra* note 64 at 50.
76. See McDonald, *supra* note 10 at 55.
77. *Supra* at 22.
facilitate the necessary shifts in poverty lawyering. Then it will present “critical legal education,” a model that incorporates meaningful learning and participation into poverty lawyering.

Client Needs

In order to shift poverty lawyering toward client-centred learning, and from the legal system toward the client’s experience, an understanding of the client’s needs (or the group’s needs in general) and how best to address these needs is essential. This “needs assessment” may focus specifically on legal-information and education needs, or may be broader, to incorporate legal needs and/or all their needs. The study by MacLeod and Shin addressed the general needs of their participants, and in doing so, was able to develop responses that were more holistic and reduced duplication by service providers.

This understanding of need may require collaboration between academe and the community and/or among community groups. If there is no social-research expertise within community groups themselves, such collaboration from universities or research organizations can be invaluable. Collaboration presents its own challenges, and certainly tensions between the university and the community were apparent at many points during the research. There were tensions during the application to research funding, the ethical review, presentation at conferences, and in the follow-up action. Yet learning occurred at all phases for community and academic partners.

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78. *Like a Wingless Bird*, supra note 16.

79. The funding came from federally funded Social Sciences and Humanities Research Council. The community had explicitly requested that the women receive compensation for their costs, including childcare and transportation. Accordingly, these costs were built into the funding proposal. We were later informed that childcare was not an eligible expense and were required to delete it from the budget. As all but one of the women had children and all were on limited budgets, the provision of childcare was an essential detail to facilitate their participation.

80. The university was concerned about its own liabilities in undertaking the research. This was evident in the necessary inclusion of the limitations on confidentiality around immigration status. If the women did not have legal immigration status and the university was approached by immigration authorities, the university would not protect the confidentiality between researcher and participant. By including this limitation, however, the neediest and most vulnerable women were, in effect, being excluded from the project. The university also limited confidentiality in cases where previously unreported child abuse was disclosed. The staff of the Women’s Program raised very different concerns. They were worried about the expectations of the women who participated. For example, the women might expect legal advice and information or immediate action. These concerns were not raised at all by the university. During the revision of the consent form, it seemed that the researchers were mediating two different worlds. The translation of the approved form, not just from English to Spanish, but from academic to clear language, highlighted the different perspectives of the two groups.

81. In order to present at the CERIS National Conference, the staff member from the Women’s Program was required to register for the day at a cost of $100. OISE/UT filed a request that she be exempted from the registration fee, and she was. Such fees are prohibitive for community partners.

82. The Women’s Program provides direct services to the women in the community. Staffing cuts and internal communication problems made scheduling and coordinating meetings difficult.
There are a number of quantitative and qualitative methods to determine needs: questionnaires, focus groups, and interviews (structured, semi-structured, and open). This project employed a feminist participatory research methodology 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, 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 the legal system. As well, the partners in the project, the researchers and counsellors, have gained insight into the pressing needs for the women.

Thus, an understanding of client needs marks the beginning of a shift toward client-centred poverty lawyering. Clients need to be able to participate in defining their needs, as well as the strategies to respond to them. Through a participatory needs assessment, learning and participation have already begun.

**Critical Legal Education**

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 a critical communication process rooted in a horizontal relationship of people). The term critical legal education, referring to public legal education (versus education of law students), is not present in the available literature. McDonald defines 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.” 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.

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83. For a full review of feminist methods in social research, see Reinharz, *supra* note 11.
84. See McDonald, *supra*, note 1, c. 3, for a full discussion of the methodology and the challenges for feminist participatory research.
85. See Lopez generally, *supra* note 64.
87. McDonald, *supra* note 1 at 294.
In the poverty-law scholarship, Lopez discusses education, of both client and lawyer, in his ideal of rebellious lawyering. 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's work focuses on the reorientation of a lawyer's practice, and he confines himself to the structural limitations of a legal-services office. He acknowledges the limitations of education in this context for lawyers: the lack of training in appropriate pedagogy, law school training that negates this mode of practice, the immediacy of clients' needs, the lack of professional support (from co-workers and the bar), time and resources, and the blurring of boundaries and responsibilities.

Lopez, however, does not acknowledge different learning needs and strategies in his discussion of education, which is an essential element in responsive lawyering. As well, responsive lawyering is marked by a shift in focus from the lawyer and other parts of the legal system to the client's experience. The focus instead is on the client's learning needs and ways 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 or his needs and ways to best 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." 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 Ontario, Canada, the definition of Legal Literacy as a process provides a comprehensive vision of an alternative approach to the law and lawyering.

Throughout this study, the strength and clarity of the women's voices were evident as they articulated what they wanted to learn, their learning strategies, and their desire

89. Lopez, supra note 64 at 70-74.
90. Ibid. at 70.
91. Ibid. at 71-72.
92. Schuler & Kadirkamar-Rajasingham, supra note 88 at 2.
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. It is important to hear their voices and their needs, and to respond.

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, such as organizing or law reform initiatives, may develop from 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.”93 It will be the women (or other client group) themselves, however, who decide what and when further action, legal or non-legal, is appropriate.

During the individual interviews, the women articulated their strategies for learning. 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, 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 spoke about the importance of structure and facilitation to assist their learning. Their response 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.94

Any effective strategy must be designed and implemented with and by the community it seeks to reach. This was extremely clear from the project, where the insights provided by the staff of the Women’s Program during the first phase of the study were invaluable. It was the women themselves who organized, advertised, developed, and facilitated much of the legal workshops, and their insights made the workshops uniquely responsive to their needs.

This next section will review the principles of critical legal education that were and can be incorporated into any workshop curriculum. First of all, during the workshops, women were able to learn basic legal information about a variety of topics. The women

94. See, for example, Like a Wingless Bird, supra note 16.
accepted the importance of their own knowledge and understood that through their experiences they have become expert problem-solvers from their everyday efforts to survive. Their unappreciated skills were acknowledged: their alertness to others, their attention to emerging patterns of behaviour and to needs. As the women talked about their own experiences, they demonstrated what it means to have a “feel” for a situation.  

The women, however, also recognized that their knowledge was not enough. They collaborated with educators and others in the legal profession to develop the different workshops. These educators, lawyers, and other professionals must be aware of and indicate the values that they bring to the teacher/learner relationship. Women who had had similar experiences (with negotiating a custody agreement, for example) participated in the workshops to ensure that women’s experiences formed the basis for learning.

Freirean and feminist pedagogical theories and methods are important to critical legal education, as both incorporate the learner’s 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 Freirean insights into a methodology or another technology.

Freire advocates a form of learning in which the educator and the students share equally in learning 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. The women specifically requested that their experiences become part of their learning process and incorporated these experiences into each workshop. They placed great value on learning from other women’s experiences, or the “people’s knowledge.”

While learning about the law was important for the study participants, both lawyers, educators, and others recognized 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.”

Information giving is a critical aspect of all 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 not only want to learn legal information and the technical rules, but they want to learn how to challenge assumptions that may underlie these rules.

95. Lopez, supra note 64 at 60.
96. See Cunningham, supra note 86.
97. See, for example, Gordon, supra note 26, and McDonald, supra note 1 at 281.
98. Lopez, supra note 64 at 56, emphasis in original.
Lawyers are not trained only 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 judgment when they encounter new experiences that do not fit the rules. This background learning is important and must be worked into any workshop. Thus, a 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 were 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. 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.

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 calls this “asking the other question” (or questions) which could be, “Where’s the racism in this?” These questions and discussion were incorporated into each workshop and provided the framework for a critical understanding of the law and its implications for the women participating.

Consciousness raising is crucial in working with disadvantaged individuals and groups and in all empowerment struggles. 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

102. Bartlett, supra note 99 at 864.
and concrete experience, integrate this experience into theory, and then, in effect
reshape theory based upon experience and experience based upon
theory.\textsuperscript{103} Alfieri defines the goal of poverty law as “empowerment.”\textsuperscript{104} His work and that of
other poverty-law scholars, however, remains rooted in traditional lawyer/client
relationships through legal representation. Empowerment involves oneself and others.
Schuler and Rajasingham see empowerment as integral to Legal Literacy, and they
offer a definition in which “empowerment could be viewed as a process for acquiring
the psychological and social capacities needed to effect changes in [social] relations.”\textsuperscript{105} They acknowledge both the individual and collective dimensions of empow-
erment and suggest that empowerment does lead to results.

One woman 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 workshop 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. This
component was difficult to incorporate into the workshops, given the time restraints.
Further work will be done in this area.

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.”\textsuperscript{106}
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.”\textsuperscript{107} Rule 2.02 of the Law Society’s Code of Professional Conduct states,
“When advising clients, a lawyer shall be both honest and candid.”\textsuperscript{108} It is further
noted in the Commentary under Rule 2.01 for Competence,

\begin{quote}
Whenever it becomes apparent that the client has misunderstood or misconceived
the position or what is really involved, the lawyer should explain, as well as advise,
so that the client is apprised of the true position and fairly advised about the real
issues or questions involved.\textsuperscript{109}
\end{quote}

A broad interpretation of this rule suggests that for a client to be “apprised of the true
position and fairly advised about the real issues or questions involved” would require
the opportunity to discuss her or his situation with others who have had similar

\begin{itemize}
\item[103.] E. Schneider, “The Dialectics of Rights and Politics: Perspectives from the Women’s Movement”
\item[104.] Alfieri (1988) supra note 71 at 668.
\item[105.] Schuler & Kadrigamar-Rajasingham, supra note 88 at 40.
\item[106.] Lopez, supra note 64 at 52.
\item[107.] Margulies, supra note 42 at 1100.
\item[109.] Ibid. at 9.
\end{itemize}
experiences, or at the least, to engage in an open debate in his or 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. The exception was when women were in crisis. Margulies sees the lawyer's responsibility as one of referral to the appropriate services. The Women's Program already offers a number of support groups on a variety of themes for women. These will continue as long as there is sufficient funding and will provide a collective forum for women to gain and give support. Brustin, 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 be 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 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 activities that are "territory typically thought beneath and beyond them."

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 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 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

110. Margulies, supra note 42 at 1100
111. Brustin, supra note 25.
113. Lopez, supra note 64 at 77.
between individuals and group development as they address social justice. 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 learning and support were central to addressing the women's needs. In times of crisis, however, such an approach should be considered 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 their learning and attend to their immediate needs.

As well, many of the women had individual legal needs that required attention and were particular to their circumstances. These individual needs often require urgent attention and intensive support from the staff of the Women's Program. Bartlett acknowledges that individual rights and needs must also be addressed as the women did.\footnote{Bartlett, supra note 99 at 837.}

Learning about the law through a critical legal education model will not necessarily 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 be tension between the long-term rewards and the immediate benefits. Tremblay refers to this tension as the "deferral thesis,"\footnote{P. Tremblay, "Rebellious Lawyering, Regnant Lawyering and Street-Level Bureaucracy" (1992) 43 Hastings L.J. 947 at 956.} which is a recurring debate in poverty law and other disciplines. 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.

**Peer Support**

The women's strategies reflected the need for an integrated approach. The women articulated a number of strategies to address their individual needs and the needs of other women in their community. The most important of these was the idea for peer supporters, which reflects the need for meaningful participation. At the time of writing, this idea has not yet been developed, but a brief description of this strategy follows.

These peer supporters would be trained in basic legal information about several areas of law (family, immigration, young offender law for example). They would also receive training about abuse. In order to keep information up-to-date, women would be expected to attend refresher training courses. Clients new to the program could ask for a peer supporter. Peer supporters would not replace legal representation or a
counsellor; they would provide extra support needed as a woman went through the legal system. This support would be provided on individually, and through it, women could begin to develop relationships of trust. As well, the women trained in peer support would be directly participating in one response to a complex set of problems.

Spanish-speaking immigrant women who have experienced domestic abuse, and other women who have experienced domestic abuse, can be extremely isolated, without contacts or opportunities to develop trusting relationships, particularly where there may be language and cultural barriers. 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.”117 By providing the female 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.118

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 strategies are only a few that could be offered to address individual needs.

The suggestions for workshops and peer support made by the women demonstrate their understanding of their learning needs and their ability to design strategies to address those needs. The workshops address their need for collective inquiry, participation, and dialogue. Through the workshops, 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 help reduce 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, as well as allowing for direct and meaningful participation by the peer supporters. We know that trauma can impair one’s ability to trust, and this can limit other learning.119 The goal of the peer support program is to provide individual support and important, timely information and resources to the woman in need.

117. Lopez, supra note 64 at 55.
118. Like a Wingless Bird, supra note 16; McDonald (1999), supra note 10.
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 and their participation are maximized.

CONCLUSION

In conclusion, 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 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.

Collaboration between community groups, with members of communities, and between academe and community groups can help ensure that vulnerable clients, such as the Spanish-speaking immigrant women who experienced domestic abuse in this study, have access to lawyering that is responsive to their learning needs. This study demonstrated that all those who have something to offer—the clients themselves, researchers, service providers, and those with legal expertise—can find ways to work together and share their perspectives. When this occurs, learning will also occur, and the strengths of each participant will flourish.

The context of this study is the Canadian legal system in Ontario, and it is suggested that the current model of legal services for these women is inadequate. A paradigm of poverty law, which would support responsive lawyering through a client-centred focus and critical legal education, has been proposed. The paradigm emphasizes the importance of understanding the clients' needs and responses to address those needs. In order to achieve this, collaborative efforts that draw upon the expertise of many different groups, academic and community, are needed. Feminist participatory research is one method that 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 learning needs, which may change over time, several elements form the foundations for critical legal education. Organizational support and context, while not essential, 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—small groups of women who would come together to learn. The learning itself can be facilitated through appropriate pedagogical techniques, such as those used in Freirean or feminist pedagogies. Such learning can lead to a greater sense of self and empowerment. This paradigm must acknowledge individual needs and address them. A peer support program was another strategy to facilitate the women's participation, increase access and outreach, and develop relationships of trust.

This proposed paradigm of poverty law shifts the focus to the client and her needs, in the belief that active participation is key to addressing the power imbalance inherent
in professional/client relationships. The women knew that they learned best when they were 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.”

120. McDonald, supra note 1 at 294.