

LEARNING ABOUT THE LAW: IMMIGRANT WOMEN, VIOLENCE AND RIGHTS

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Abstract

This paper describes a feminist participatory research project with Spanish-speaking immigrant women who had experienced domestic abuse. The goals of the first phase of the project were to 1) identify the legal education and information needs of these women and 2) determine how best to address these needs with consideration for particular factors which could impede learning including the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma.

The women who participated in the study were able to clearly define their legal information and education needs and describe their informal learning experiences as they dealt with the law. These findings provide an important framework for the development of meaningful responses to the women's legal information and education needs.

Résumé

Cet article décrit un projet de recherche féministe axé sur la participation et mené auprès d'immigrantes hispanophones qui ont été victimes de violence familiale. Les objectifs de la première phase du projet consistaient 1) à établir les besoins de ces femmes sur les plans de la formation et de l'information d'ordre juridique et 2) à déterminer la meilleure façon de satisfaire à ces besoins, tout en tenant compte de facteurs particuliers susceptibles d'entraver l'apprentissage, tels le statut social de ces femmes, la pédagogie, le rôle de la profession juridique et les répercussions dues aux traumatismes.

Les femmes qui ont participé à l'étude ont été en mesure de définir clairement leurs besoins sur les plans de l'information et de la formation d'ordre juridique et de décrire leurs expériences d'apprentissage informel au fur et à mesure de leurs contacts avec la loi. Ces résultats fournissent un cadre important pour la mise au point d'interventions qui répondent véritablement aux besoins des femmes sur les plans de l'information et de la formation d'ordre juridique.

It has long been recognized that traditional legal services do not adequately address the legal needs of disadvantaged individuals and groups (Wexler, 1970). For example, a recent inquiry into legal aid in Ontario reported that "...the demand for legal information is profound" (McCamus, 1997, p. 55). This recognition is hardly new to the lawyers, community workers and others who are dedicated to the delivery of legal services to those who are disadvantaged in our society. These include women who have experienced domestic abuse, and particularly those women who are new to Canada.

This paper describes a feminist participatory research project with Spanish-speaking immigrant women who have experienced domestic abuse in a large Canadian city. Researchers from a university in a large Canadian city collaborated with the Women's Program of a community centre that provides services to Spanish speaking immigrants. 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 violence; and 2) to determine how best to address these needs with consideration for factors which could impede or enhance learning such as, the social location of the women, pedagogy, the role of the legal profession, and the impact of trauma on learning. The results of the research will be developed and implemented in the second phase of the project.

Study findings suggest that the immigrant women learned very little about the law through their legal experiences. Using Watkins and Marsick's (1992) framework for informal learning, factors that both impede and enhance learning were identified. The author argues that these elements must be incorporated into any initiative for learning about the law. The first part of this article presents a background on the context of the study, a brief review of the literature and study methodology. The second part presents a discussion of findings and conclusions.

Part I—The Research Project

Background

Domestic violence crosses race, class, gender, and national boundaries. In Canada, there has been an increasing understanding and acceptance of the prevalence and seriousness of domestic violence. For example, in 1993, Statistics Canada released the results of the *Violence Against Women Survey*, which was the first and largest of its kind and involved interviews with 12,300 women across Canada. The study found that 29% of ever-married women (including those in common-law relationships) had been subjected to

violence at the hands of a marital partner at some point in the relationship (*The Daily* 1993, 4). One of the criticisms 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 (Davis-Barron 1993; McDonald 1999a), such as the women who participated in the project reported here.

The community centre where the study was situated provides a number of services to the Spanish speaking community. It provides legal assistance in the areas of employment, housing, employment maintenance and immigration. It does not provide criminal or family law services because these have traditionally been covered by the private bar and the *judicare* model of legal aid.

The Women's Program at the centre was established in 1981. There are now three full time counsellors. The program offers support to Spanish speaking women who suffer abuse in their relationships with their partners, creates awareness about violence against women, and sensitizes the community at large to these issues. Importantly,

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

The program 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 1997, 500 new clients used the service and 4,000 hours of service were given.

The legal needs of the women who use the Program are immense, but the Legal Clinic, because of the structure and limitations in legal aid funding, 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 only partially met or not at all.

Review of the Literature

Many studies have been completed on the legal information and education needs of a variety of groups in Canada, including immigrant women who have experienced domestic abuse (MacLeod & Shin, 1994; Godin, 1994; Currie, 1994; Burtch & Reid, 1994; Law Courts Education Society, 1994,

1995; McDonald, 1999b, 2000). In some of these studies, the focus has been on how to get women to use the criminal legal system (Law Courts, 1995; Miedema & Wachholz, 1999). In a study completed in the early nineties in Toronto, Martin and Mosher (1995) suggested that the criminal justice system may not be the appropriate response for many women who have experienced domestic abuse.

As Godin notes in her study, "Virtually all reports on the situation faced by immigrant women who are subject to wife assault call for more legal information for women" (1994, p. 7). Few of these studies, however, examine learning strategies.

There are two studies that are exceptions. The first is the Law Courts Education Society of British Columbia and their *Comparative Justice Systems Project* (1994). In this project, seven cultural communities engaged in participatory research to design the content and format of legal information appropriate for each community and appropriate training to service providers within the court system. Underlying the project is the assumption that, "[l]egal education within these communities needs to start from the experiences and knowledge base of these communities." (1994, p. 5). As a result, the members of each targeted community were involved at every stage of the project to determine the manner in which communities wanted to learn about the law.

MacLeod and Shin's 1994 study, *Like a Wingless Bird: A Tribute to the Survival and Courage of Immigrant Women who are Abused and who Speak Neither English nor French*, is also important. This study found that the women interviewed had very little useful information about mainstream Canadian society, legal or otherwise.

There is a body of literature arising from numerous disciplines and theoretical perspectives that examines informal learning for adults. The idea of informal learning is not new; Knowles introduced it in his book, *Informal Adult Education*, published in 1950. In the late sixties, Tough (1978) showed that adults were learning independently of formal institutions and educators. Coombs, Prosser and Ahmed (1973) introduced the threefold learning typology (formal, non-formal, and informal) that remains in use by some academics today. These authors saw informal learning as "the truly lifelong process that allows individuals to acquire values, skills and knowledge from daily experience and which may come from the media, friends and family" (p. 14). In the early 1980s, Strauss (1984) criticized the formal/informal dichotomy. She argued that this dichotomy is not only ethnocentric, but "...its categories are too broadly conceived as whole institutional contexts

rather than particular cognitive processes” (p. 198). More than fifteen years later, the terms, “formal” and “informal” are still being used. While rigidity in any characterization has its limitations, understanding informal learning as distinct from formal learning or other forms of learning is important.

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

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

Livingstone then distinguishes “explicit” from other forms of informal learning:

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

The NALL project is attempting to identify the extent of informal learning, the existence of social barriers to learning, and more effective means of connecting learning with work (Livingstone, 1999, p. 52). The study found a wide range of learning with approximately 90% of respondents engaged in “other general interest informal learning” (p. 61). Seventy-five percent were learning about health, 60% about environmental issues, 60%

about finances, and over half were learning about hobbies, social skills, computers, sports, and recreation (p. 61). Learning about the law was not reported.

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

These writers, through their research, have provided a conceptual understanding of the process and results of informal learning for adults. This understanding, however, is absent in the literature on public legal education and information.

Methodology

Feminist participatory research evolved from participatory research and involves investigation, education, and action (Maguire 1987). It was chosen as the appropriate methodology for this study because it helped facilitate the participation of the women in the design and resulting action of the project. This participation also assists in breaking down the dynamics of power and control so often present in the conceptualization and delivery of social services.

Consultation with the staff of the Women's Program began in 1998. This consultation, in conjunction with further research to understand the issues around legal information and education needs (McDonald, 2000; 1999b), led to the development of the goals for the two-phased project. The goals of the first phase were: 1) to identify the legal education and information needs of Spanish-speaking immigrant women who have experienced domestic violence; and 2) to determine how best to address these needs with consideration for particular factors which could impede or enhance learning.

The goals of the second phase were to develop and implement the strategies generated during the investigation; this phase is not presented in this article.

The elements of feminist participatory research are collective processes. In order to develop trusting relationships between the researcher and participants and amongst the participants, 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. The staff of the Women's Program believed that a traditional focus group would not be an appropriate technique for the collective inquiry. They felt strongly that the women would need a longer time period to trust one another in order to work well in a group setting. They also suggested that a different setting outside the centre and some time to relax and enjoy themselves would foster an atmosphere of collegiality. A three-day retreat and workshop were designed to address these needs. Although there is little literature on the "workshop" as a feminist research technique (see Reinharz, 1992), it has been used in feminist research (Horsman, 1999, pp. 23-27). The workshop was designed as a full day of group activities which followed a problem defining and solving format. It was a collective inquiry process that promoted the women's participation and learning about the research process itself and about their own learning needs.

Preceding the workshop and with assistance from the staff of the Women's Program, a total of 14 women were interviewed in the summer of 1999. Many, but not all, of the women were clients or former clients of the Women's Program.

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

All the women had experienced some form of abuse in their intimate relationships—psychological, emotional, physical, sexual, and/or economic.

Only one woman was still living in the same household as her spouse. All the women had had some experience with the Canadian legal system whether for immigration, family or criminal issues.

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

Most of the interviews lasted between 45 minutes and two hours. A list of questions, which served as an interview guide, had been reviewed and translated by those in the Women's Program; the interviews, however, were conducted like conversations and were taped and transcribed. Most occurred in the women's homes. Participants were given a stipend of \$25.

After all the interviews had been completed, the women, their children, the staff and researcher joined together at a farm located north of the city for the three-day retreat and workshop. The first day was spent relaxing, 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. On the second day, two childcare workers arrived to provide childcare during the workshop. In total, ten women and twelve children participated in the retreat.

During the workshop, a variety of participatory activities were used which allowed the women to design a legal education and information program to address their needs. While maintaining the confidentiality of the interview data, it was possible to structure the workshop and individual activities to reflect the dominant themes and identified needs. Hence, the workshop began with introductions and the opportunity to talk about expectations. A group agreement that would be used for the day was developed based on respect, trust and confidentiality. The women then completed an exercise designed to help them understand differences and similarities, as well as privilege and discrimination. Following that, a further activity helped to identify barriers in accessing the legal system—both in theory and in practice. After a break for lunch, there were two more activities. The first was designed to identify the women's legal information and education needs and the second was to develop strategies that would address these needs. The women focused on answering questions such as: How do you like to learn? How do you learn best? What factors help you learn? By the end of the day, the women had conceived a number of

strategies, which they envisioned developing into a program to be called, *El Derecho a Saber/The Right to Know*.

All the activities started from the women's experiences; in small groups, the women would respond to questions posed in the larger group by talking about their own experiences with the legal system. There was enough time to share experiences and learn from one another. In this way, the workshop fulfilled both the educational and investigative elements of feminist participatory research. Different women facilitated the smaller group activities. The author facilitated the larger group activities and in doing so, reinforced her role as leader and researcher.

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

From the workshop, there were many strategies that the women identified to address their legal information and education needs. *The Right to Know Program* would include: legal education workshops in Spanish with a focus on participation, more written and visual materials about the law in Spanish, a legal directory of lawyers who would have an understanding of the needs of immigrant women who had experienced abuse, assistance with document completion and filing at the courts, and most importantly, a peer support program.

Part II—Learning About the Law

Legal Information and Education Needs

The results from this research support what other studies have found (MacLeod & Shin, 1994; Godin, 1994; Currie, 1994; Burtch & Reid, 1994; Law Courts Education Society, 1994, 1995; McDonald, 2000, 1999b). The women asked for more materials (written and audio/visual) 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 (custody and access, support, separation, divorce, and division of property) stood out clearly as the most important area. Other areas were immigration law (sponsorship breakdown, refugee claims, dual nationality and travel outside of Canada) and Legal Aid (e.g., criteria and eligibility).

Two areas that have not been highlighted in previous studies are understanding lawyers' roles and responsibilities and young offenders' law. With respect to the latter area, the women were thinking ahead for their children believing that education and information could play a preventative role. The women also wanted to know more about the criminal justice system, but when asked to prioritize their information needs, they did not rank this area as a priority. These results are not surprising given the women's situations. What is surprising is that the legal profession has been so slow to recognize and respond to the overwhelming needs that have long been identified.

The data revealed that in most cases the women did not see the criminal justice system as a viable resource or response to abuse. There were cases where the abuse that occurred would not constitute acts deemed criminal under Canadian law. In other cases, the men had disappeared. From the women's descriptions, it seemed that the criminal justice system was the right response in only a few cases.

As a result, the women indicated that they wanted information about their rights in the criminal justice system, but they also wanted to understand what would really happen to them and their children if charges were laid. For several of the women, learning that the abuse they had suffered is illegal under Canadian law was extremely important. That knowledge itself and the knowledge that they could use the criminal justice system to charge offenders was empowering for them.

Further, the women wanted to be able to access information and know about places where they could safely request support and assistance. This will likely not be government agencies, but intermediaries such as community centres or friends. Women talked about the lack of information as contributing to their isolation and fear, and their remaining in their abusive 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. The data reveal that the women received information in a number of ways. As such, information should be distributed in as many ways as possible, including by word-of-mouth.

Learning

The goal of this study was to help Spanish-speaking immigrant women who had experienced domestic abuse to define their legal education and information needs and to determine how best to address these needs. Few of the women in the study had access to any legal information or education. In analyzing the data, the learning that did or did not occur during the women's

experiences with the legal system was a persistent theme. From this data, we can gain understanding about the potential for learning to occur and the women's informal learning experiences.

Watkins and Marsick (1992) propose a theory of informal learning in organizations. They identify seven elements that contribute to a conceptual understanding of informal learning. The first element Watkins and Marsick identify is experience, which often provokes change or creates an imperative to learn. Because learning about the law for the women was mostly based on their experiences (though not exclusively), this first element deserves some discussion. Merriam and Clark (1993) note in an article entitled, "Learning from life experience: what makes it significant?" that no learning occurs when an experience is either too congruent or too incongruent with prior experience.

For all of the women in the study, experience played a decisive role in their learning. In several situations, the police became involved and their spouses were charged with an offence. Such extreme changes provoked an immediate need to learn. When separation from their spouses occurred for the women, there was a need to quickly learn a great deal, and this they did. They did not, however, always learn about the law. They learned what was needed for them to survive. For Celeste and Tita, this involved having to apply for social assistance because they were left with no money. For Esperanza, she learned how to earn a little money making sweaters and *empanadas* (meat pies) to survive because she was not eligible for social assistance. For Natalia, it meant learning everything she could about family law and her right to custody of her son. For Regina, at first it meant learning about shelters and then she had to learn about custody and amendments when she wished to take her son to visit her family in her home country.

Some fifty years ago, Rogers (1951) noted that "a person learns significantly only those things which he [she] perceives as being involved in the maintenance of, or enhancement of the structure of the self" (p. 388). It is not surprising that for a learning experience to be significant, the learner must be personally involved. This was certainly evident from the data. The women who learned most about the law were those who were personally and actively involved in their legal processes.

Merriam and Clark (1993) found that learners must undergo an expansion of skills and abilities, sense of self, or life perspective, or the experience should begin a transformation that involves the whole person. Regina was the one participant in the study who most clearly learned a great deal from her later experiences with the legal system. She sought a change in

her custody agreement that would allow her to take her son with her to her home country. With support from a counsellor at the Women's Program and some guidance from generous lawyers and court staff, she filed her application, affidavit and supporting documents and achieved her goal. It was a frustrating process but she learned by being actively involved. She contrasted this legal experience with a previous one when she sought a divorce. "I didn't really like my lawyer, it was a him. But at that moment, I just wanted somebody to do the divorce." She described how she was asked to sign various forms, but she did not know what they meant. During her second legal experience, Regina learned through an expansion of her self. She developed skills (writing, advocacy and understanding about the law) and achieved a greater level of independence. This is noted when she finally gets her day in court and the judge asks her where her lawyer is. Regina commented to me,

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

Merriam and Clark (1993) view an expansion of self and a transformation that involves the whole person as overlapping and being on a continuum. Cynthia provides a perfect example of someone whose experience with the legal system led to a transformation involving her whole being. While undergoing treatment at a hospital, a social worker encouraged Cynthia to speak about her marriage. This led her to the Women's Program where she participated in support groups and had the support of a counsellor. Cynthia learned that she, as a woman and as a wife, had rights. She had never known this before and had lived much of her sixty-odd years in the belief that she had no rights, in her home country or in Canada. She described this new understanding as producing a dramatic change in her entire being.

Cynthia sought a separation and is now divorced. She had been going through the negotiation of the separation agreement for a year prior to our interview. She had been able to afford a lawyer (the only woman in the group, although many of the other women had retained lawyers through Legal Aid) and had many unanswered questions about the law and its implications for her. It seemed that the legal services that she received left her as confused as when she had begun the process. At the time of the interview, she was a staunch advocate of the importance of legal information and education. Her learning about her rights had provided her with a strong, new-found belief in herself and in all women. This learning had dramatically

altered the belief system with which she had grown up and lived most of her life—that women are subordinate to men and have no rights as women or wives.

“Both expansion and transformation result in our having a greater capacity for dealing with subsequent life experiences” (Merriam & Clark, 1993, p. 137). Regina certainly expressed this belief. She felt prepared to make other changes in her custody agreement and to seek child support. Cynthia had moved into her own apartment and was taking care of her needs, cautious but confident in her changes. On the other hand, there were many women who could not say what they had learned from their prior experiences. During the workshop, Wendy talked about having “gotten through” her divorce. A couple of years later, her teenage son was charged with offences under the *Young Offenders Act* and she felt totally confused and overwhelmed by the legal system. She noted that one experience with the legal system does not prepare you for another because the next one might involve a totally different issue. While Wendy makes an important point about the complex and vast nature of law, she was not personally involved or active in her divorce. She had a lawyer and during our interview she could remember very few details. She signed the forms and let the lawyer do everything. This was common for the women who had had legal representation. Perhaps if she had been an active participant in her prior legal proceedings, she would have felt less overwhelmed by those involving her son.

Merriam and Clark (1993) also found that for learning to occur from an experience, it must be subjectively valued by the learner. Again, the women’s experiences provide some interesting examples. Margarita’s spouse was charged by the police with a number of offences. She attended the Victim Witness Assistance Program, which she found very helpful because it gave her a good understanding of the court process and her role within it. On the day of the criminal trial, she did not attend because she could not find childcare although she had been given advance notice of the date. Her attitude was one of ambivalence. During the interview she noted, “So like I know he’s a bit violent, but it’s not like say, uh, physically abusive, like punching me and stuff. He’s like this when he’s drunk.” She seemed to imply that because her spouse was not “physically abusive,” criminal charges were not necessary. Bringing criminal charges was less important to her than the loss of her economic support.

She later told me that today she regrets not having attended court because she wants to seek child support and sole custody of the children. The civil

and family law issues were important to Margarita because they affected her and her children's daily economic survival. The criminal charges had less relevance and less value to her because she was not seeking justice or safety, but rather economic support. Hence it was easy to find a reason not to attend the trial. While the Victim Witness orientation helped her, her understanding of the criminal trial was confused as she believed that her family law issues could also be discussed during the hearing. For Margarita, while there appeared to be some expansion of her self (through some understanding of the criminal trial), she did not subjectively value the experience of the criminal justice system and hence, apparently little or no learning occurred.

Celeste talked about how ashamed she was that her marriage had failed. In her family and in her culture, a divorce was a sign of failure. "My parents won't help out at all—because I'm separated, divorced." This may have been the strongest reason why she was extremely ambivalent about pursuing a divorce or other aspects of her situation. She could not value the divorce when it was such a symbol of failure. It was her ex-spouse who in the end filed the divorce petition. She did not attend the hearing.

Ana pursued a lengthy legal proceeding in her home country to gain custody of her son by her first, abusive spouse in order to bring him to Canada. Out of necessity, much of the legal work was carried out by lawyers through her parents in her home country. Yet Ana remained actively involved and her descriptions of the experience were passionate and tearful. She seemed to experience an expansion of her self through a new life perspective on the importance of her son in her life. She subjectively valued the experience and, even more, the outcome. "Children are so important to a mother," she told me during the interview. In contrast, Margarita did not really value her spouse's arrest and the criminal proceedings. Celeste did not value at all the divorce and related legal proceedings. Both Celeste and Margarita learned little about the law from their experiences. These examples show us the importance of subjectively valuing the experience to the potential for learning.

Watkins and Marsick (1992) identify a second element that is important to further our understanding of informal learning. This element is the organizational context. For many of the participants in this study, the presence of the community centre provided a context that was familiar and supportive, and facilitated learning for the women. In two of the situations where the women were not involved with the Women's Program, their learning about the law was limited or nil. The presence of the Women's Program did not ensure that learning about the law occurred. The Program

lacks sufficient resources and a structured approach to learning about the law. As well, the context of the legal system is extremely complex with many more players such as Legal Aid workers, lawyers, judges, and court staff. The Women's Program, however, did provide sensitive, caring support, information in Spanish and often a link to the many players in the legal world.

The third element is a focus on action. This element relates to the first, the importance of the experience. For learning to occur, there must be action and reflection. For the majority of the women in the study, their experiences with the legal system involved little action. They were passive participants in their cases with the lawyers and often their counsellors were the active participants. Regina again presents a strong example where because she was actively involved in her case (she did it herself), she learned a great deal.

The fourth element is the presence of non-routine conditions. When one thinks of the legal system in Canada, one tends to think of a variety of players including lawyers. Legal Aid was designed to provide legal assistance to those who could not afford it. In general, most people seek assistance when there is a problem they cannot resolve themselves. If identified as a legal problem, one may attempt to seek out a lawyer or another form of legal assistance. Due to cuts in Legal Aid and the structuring and funding of our legal clinics and duty counsel, most of the women in this study found themselves without a lawyer's assistance at some point in their experience with the legal system. In some places, this situation might be considered routine. It may become so here, although advocates continue to press for increased legal representation and Legal Aid coverage has been increased somewhat since 1998.

Watkins and Marsick (1992) argue that when non-routine conditions occur, this will require a change or some form of action. One such example from this study is legal representation. When the women were denied a Legal Aid certificate for their family law issues, some of the women pursued solutions on their own and had to learn about the law, how it affected them, and what they could do. If they had been able to retain a lawyer, the usual legal remedies would have been sought (e.g. child support or divorce), but with the women not being active participants in their cases, no learning would have occurred. As Gordon notes,

... a successful experience with legal services taught the worker nothing more than reliance on legal services. The worker who benefits from the legal action has not learned the skills that she will need to fight back the

next time she is exploited; instead, she has learned that she should seek out a lawyer to solve her problems. (1995, p. 438)

There is a difficulty with this element, however, and the example of legal representation. In several cases, when the women were denied Legal Aid, they did nothing about their situations and tried to ignore the implications of no action. When Celeste's lawyer dropped her case, Celeste dropped it also. They neither learned why they had been denied nor appealed the decision; nor did they seek self-help remedies. It appears that this fourth element of non-routine conditions does not necessarily result in learning through change or some form of action. This element requires greater refinement in order to be useful for this framework. The learner's confidence, motivation and emotional state, the environment and type of non-routine conditions will all impact the potential for learning as a result of this element.

Watkins and Marsick (1992) identify the fifth element as the tacit dimension of learning. This dimension resides in context and can result in error because much is never articulated and commented on. English (1999) could not find an application for this element to her own research. In this study, however, the tacit dimension is extremely important because many of the women who did learn about the law never had the opportunity to discuss their understandings. What was evident throughout the interviews was that the knowledge the women had gained about the law was often inaccurate, out-of-date, or incomplete. In some cases, they had been given the information from their spouses (e.g. that joint custody would be desirable). In most cases, they learned the information from friends or acquaintances who had had experiences with the legal system. Many of the women expressed their assumptions about the law, lawyers and the legal system.

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

"She [the lawyer] was a woman and I thought she'd understand."

"I'm the type of person that I don't want to hurt other people. So because I didn't want to hurt him in any way, I really didn't follow the legal system."

"I met a woman the other day. When she retained a lawyer, the lawyer made things better."

"To go to court, you need a lawyer. You can't go to court without a lawyer."

This tacit dimension in learning about the law must be evident to anyone working in public legal education. In the Law Courts Comparative Justice Systems Project (1994, p. 57), the critical assumptions for the Latin

American community included: people from Central America are used to operating within the informal system; few deal with the formal legal system; the legal system operates for the wealthy; the legal system is an instrument of the oppressor; there are few human rights in Central America; the government is often your enemy; and the ordinary citizen has no trust in the system. While these assumptions were not all validated by the participants in this study, they provide another example of the importance of this tacit dimension in learning. People learn from a variety of different sources: other people, media, as well as their previous experiences. These assumptions must be examined critically and challenged if necessary in order to permit space for critical legal education to occur.

Watkins and Marsick (1992) identify delimiters, or the limitations of the learning context, as the sixth factor. These delimiters can be viewed as the problem framing, or the naming the things to which we will attend, or the placing of limitations on our context. For example, Regina, in talking about her first experience with the legal system, noted: "But at that moment, I just wanted somebody to do the divorce." There was so much else going on in her life (separation, moving into a new apartment, trying to find furniture) that she limited her learning framework to the result—a divorce. As a result, her informal learning was limited or nil. She did not learn about the family law system or the legal profession or aspects of her divorce agreement that she later wanted to change. These delimiters are important to recognize and respect in any learning context, but in particular where there has been abuse or other trauma.

This study has affirmed that trauma can impact learning (see Horsman, 1999) and be a delimiter for learning. During the individual interview, Natalia spoke at length about the experience of separation when her husband was charged with assault. She spoke of feeling *loca*—crazy—and not being able to concentrate. She spoke at length about what she needed. She wanted simple, direct information. She did not want her options laid out before her or to be made aware of the uncertainty of leaving the custody of her son to a judge, someone she did not know. Her survival was dependent upon certain results (sole custody of her child, a jail sentence for her spouse). She noted that her emotional state would have prevented her from learning through group participation.

From the women's experiences, it is suggested that women, at the time of crisis, need individual, one-on-one support. They are seeking uncomplicated information and simple advice. Too many options are confusing, and the lack of sure outcomes only contributes to their sense of instability and fear. We

must be able to focus on more than just outcomes in any program for learning about the law. If the goal is to ensure that women will be able to get through the family legal system with less confusion, then women and program coordinators will end up frustrated. Learning may be going on as women begin to connect, to trust, and to share again. This learning must be acknowledged and valued.

This delimiter, the impact of trauma, has not been previously recognized in public legal education. It can be seen as an impediment to learning; women cannot learn when they have been so damaged by their experiences. Recognition of the limitations required and the learning that is accomplished will go a long way to ensuring a positive learning experience for all involved. As opposed to seeing delimiters in a way that limits learning, they must be viewed as critical tools in framing an appropriate context. If the delimiters of the learners are respected, then greater learning will occur in the long run. If learners have a positive, but limited learning experience, they will be more likely to widen their vision to include the larger context at another instance.

The final element includes enhancers, or three aspects that enhance the effectiveness of learning, but are not essential for learning to occur. The first enhancer is proactivity, or the readiness to take action. When one allows circumstances to dictate responses, learning can occur but is rarely enhanced. In most instances, learning starts as a reaction. This is very evident from the women's experiences in the study. Many of the women only sought child support when the provincial government required them to as a condition of receiving social assistance. They proceeded to court in response to a letter received. Celeste, who started divorce proceedings, but then abandoned them when her lawyer left her case, only followed through when her ex-spouse filed a petition for divorce.

Much of law is reactive. We come into contact with the law when there are problems to resolve, such as a marital breakdown. Where there is proactivity, learning will be enhanced. Again, Regina is a good example of the role proactivity can play. She knew that in order to take her son to her home country, she would need the court's permission. She had been stopped at the border on a previous occasion and did not want to repeat that scenario. She took active steps to get the court's permission. By seeking out her objective and by being an active participant, Regina learned a great deal.

The second enhancer is critical reflexivity. This is the opportunity and ability to identify and to make explicit hidden norms, values and assumptions. Few of the women have had this opportunity. During the interviews and particularly during the workshop, many of their assumptions

were raised and discussed further or challenged by me or by other members of the group. Such an opportunity can truly enhance learning (see McDonald, 1998). The workshop provided the beginning of such an opportunity. As the women were identifying areas of law for learning purposes, they noted that they did not want to just learn rules or criteria. They also needed to understand why Legal Aid applications were rejected and what to do about it. Clearly, this critical reflexivity must be incorporated into their *Derecho a Saber/Right to Know* program at both the individual and collective level.

The third enhancer is creativity or the ability to think beyond the point of view one normally holds and to break out of preconceived patterns. This creativity requires time and is similar to critical reflexivity. Again, during the workshop, there was some evidence of this creativity. We were, however, limited by time. Such creativity must also be incorporated into their program.

In sum, it is clear that for some of the women informal learning took place during their experiences with the law and the legal system. For most of the women, however, little or no learning occurred. In determining how best to address their legal information and education needs, it is essential to address the elements that contribute to informal learning. While all the women had experiences with some aspect of the legal system, the level of their personal or active involvement varied considerably. The greater their active involvement had been, the greater their learning about the law. This level of action relates to Watkins and Marsick's (1992) third element (action). This was determined during the interviews by their ability to remember details, terminology, describe their experiences and their overall understanding of the law. Prompts were used when their descriptions faltered. In many instances, women had never known what happened to their forms or what the charges had been. In other instances, they could not remember. Importantly, I am not suggesting that the women did not learn, but they often did not learn about the law. They did learn exactly what they needed to survive at that moment.

Having the support of the Women's Program and its organizational context facilitated learning in most instances, but the legal system confused and limited women's learning overall. Given the complexity of the legal system, the rules, the processes and the language used, it is not surprising that this context could have impeded learning. In some cases, the presence of non-routine conditions (inability to retain legal representation) facilitated learning, while in others this element seemed to diminish the learning opportunity even more. The tacit dimensions of learning about the law, or unspoken assumptions, also played a role. Celeste believed that she was only

allowed one Legal Aid certificate and hence, never took up her case again. If this assumption had been challenged, she might have seen a more successful resolution of her divorce.

The delimiters in a given learning situation can limit learning to a narrow context. Various delimiters were evident in the women's situations including language, access to resources, lack of information, trauma and crisis. An understanding of these delimiters can assist in facilitating learning. As English notes in her study, adults are "capable of sorting out the priorities that have meaning and practical benefit to their lives" (1999, p. 392). Recognizing these priorities and respecting them will go a long way to providing a meaningful learning experience.

Watkins and Marsick's (1992) seven elements contribute to a deeper conceptual understanding of learning. The fourth element, non-routine conditions, however, requires greater clarity. When applied to the example of the lack of legal representation, there was evidence that learning did occur when women were required to learn about the law themselves. There was also evidence that some women chose not to ignore their legal problems when they were denied legal representation and no learning occurred. Clearly, many other factors (motivation, emotional state, confidence and prior experience with the legal system) influenced the outcomes of non-routine conditions. A rigid application of Watkins and Marsick's framework does not accommodate these additional factors.

Further, the term "delimiter" implies a limitation on learning. As suggested earlier, a delimiter such as the impact of trauma, should not be seen exclusively in a negative light. Understanding and respecting the learner's emotional and psychological state will enhance learning for all involved.

The usefulness of this framework lies in its application. In this study, the framework furthered our understanding of the women's experiences in learning about the law. This understanding can be incorporated into future initiatives to address the women's legal information and education needs.

Conclusion

Throughout the data collection process, the women emphasized the importance of understanding their needs. They have also suggested responses to address those needs. Feminist participatory research is one methodology that can facilitate participation to determine needs and responses, and proved effective in facilitating women's participation in this study.

Organizational support and context lend legitimacy and a framework to the learning during what may be a time of upheaval and uncertainty for many women. A structured approach to learning is important. In the study, the women suggested the use of workshops (*talleres*), that is, small groups of women who would come together to learn. The learning process can be facilitated through the use of appropriate strategies, such as Freirean or feminist pedagogies. Such learning can lead to empowerment and perhaps mobilization, although the women themselves will have to decide upon that particular action. As well, this paradigm must acknowledge individual needs and address them. For example, the women suggested a peer support program that would again facilitate participation, increase access and outreach to other women in similar situations, and develop relationships of trust between members of the community.

The women who participated in this project were very clear about their legal education and information needs. They addressed individual and collective needs from legal, emotional, and practical perspectives. They were also articulate in proposing solutions to address these needs. They were less aware of their own learning processes and rarely questioned why or how they learned or did not learn about the law.

The second phase of the project, which is not yet completed, aims to foster the women's ownership and activism in a local context. These current findings on learning provide an important framework for the development of appropriate responses to the women's legal information and education needs. The women who have participated in the project have discovered their own strength and a role for themselves in helping other women.

References

- Burtch, B., & Reid, K. (1994). *Discovering barriers to legal information: First generation immigrants in Greater Vancouver*. Ottawa: Department of Justice.
- Coombs, P. H., Prosser, R. C., & Ahmed, M. (1973). *New paths to learning for rural children and youth*. New York: UNICEF, International Council for Educational Development.
- Currie, A. (1994). *Ethnocultural groups and the justice system in Canada: A review of the issues*. Ottawa: Department of Justice.
- Davis-Barron, S. (Nov. 18, 1993). Survey hailed as best ever on violence against women. *The Toronto Star*, A16.
- English, L. (1999). Learning from changes in religious leadership: a study of informal and incidental learning at the parish level. *International Journal of Lifelong Education* 18 (5), 385-394.
- Godin, J. (1994). *More than a crime: A report on the lack of public legal information materials for immigrant women who are subject to wife assault: Working document*. Ottawa: Department of Justice.

- Gordon, J. (1995). We make the road by walking: Immigrant workers, the workplace project and the struggle for social change. *Harvard Civil Rights-Civil Liberties Law Review*, 30, 407-450.
- Horsman, J. (1999). *Too scared to learn: Women, violence and education*. Toronto: McGilligan Books.
- Knowles, M. (1950). *Informal adult education*. New York: Associate Press.
- Law Courts Education Society of British Columbia. (1995). *Domestic violence and the courts: Immigrants and visible minority perceptions*. Vancouver, British Columbia: Author.
- Law Courts Education Society of British Columbia. (1994). *Comparative justice systems project report: Research, process, and materials*. Vancouver, British Columbia: Author.
- Livingstone, D. W. (1999). Exploring the icebergs of adult learning: Findings of the first Canadian survey of informal learning practices. *Canadian Journal for the Study of Adult Education*, 13(2), 49-72.
- MacLeod, L., & Shin, M. (1994). *Like a wingless bird: A tribute to the survival and courage of women who are abused and who speak neither English nor French*. Ottawa: National Clearinghouse on Family Violence.
- Maguire, P. (1987). *Doing participatory research: A feminist approach*. Amherst, Mass.: Center for International Education, University of Massachusetts.
- McCamus, J. (1997). *Report on legal aid in Ontario: A blueprint for publicly funded legal services*. Toronto: Ministry of the Attorney General of Ontario.
- McDonald, S. (2000). Beyond casework—Public legal education in Ontario legal clinics. *Windsor Yearbook of Access to Justice*, 18.
- McDonald, S. (1999a). Not in the numbers: Immigrant women and domestic abuse. *Canadian Woman Studies*, 19(3), 163-167.
- McDonald, S. (1999b). *Phase II: Legal information needs of low-income women in Ontario, The child support guidelines*. Toronto: Department of Justice/CLEO.
- McDonald, S. (1998). Popular legal education in downtown Santiago. *Convergence* 31, 147-155.
- Merriam, S., & Clark, M. C. (1993). Learning from life experience: What makes it significant? *International Journal of Lifelong Education*, 12(2), 129-138.
- Miedema, B., & Wachholz, S. (1999). A complex web: Access to justice for abused women in New Brunswick. *Canadian Woman Studies*, 19(1-2), 175-181.
- Reinharz, S. (1992). *Feminist methods in social research*. New York: Oxford University Press.
- Rogers, C. R. (1951). *Client-centered therapy: Its current practice, implications, and theory*. Boston: Houston Mifflin.
- Statistics Canada. (1993). *Violence against women survey*. Ottawa: Ministry of Industry.
- Strauss, C. (1984). Beyond "formal" versus "informal education: Uses of psychological theory in anthropological research. *Ethos*, 12(3), 195-222.
- Tough, A. (1978). Major learning efforts: Recent research and future directions. *Adult Education Quarterly*, 28(4), 250-263.
- Watkins, K. E., & Marsick, V. J. (1992). Towards a theory of informal and incidental learning in organizations. *International Journal of Lifelong Education*, 11(4), 287-300.
- Wexler, S. (1970). Practicing law for poor people. *Yale Law Journal*, 79, 1049-67.