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A STUDY INTO THE IMPACT OF FEMINISM UPON LEGAL DISCOURSE IN
CRIMINAL JUSTICE POLICIES ON WIFE BATTERING CANADA

© Taunya Goguen

1998

“Submitted to the Department of Criminology,
University of Ottawa, in partial fulfilment of the
requirements for the degree of Master of Arts”



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I am grateful to Prof. Colette Parent for all her insightful, critical and supportive comments throughout the process of completing this thesis. My thanks to Prof. Julian Roberts who took the time to carefully edit my work, and to my readers Prof. Ross Hastings and Prof. Alvaro Pires. Also, I would like to thank my family and friends who offered their support and encouragement which made writing this thesis possible.

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ABSTRACT

Feminist scholars have become aware of the risks of engaging law to address women's needs and concerns. In fact, several Canadian feminist writers (Currie, 1990; Snider, 1991) argue that the criminal justice system is not a reliable ally for feminists, and suggest that relying on it will not empower women, but will sustain institutions that perpetuate the status quo of political, economic and familial relations which subordinate women to men.

The purpose of this study is to examine of the extent to which feminist discourses have been incorporated into justice policies and to demonstrate the power of feminism to re-define the legal response to male violence against women in intimate relations. Following Smart's (1989) work, *Feminism and the Power of Law*, it is hypothesized that feminist discourses will be marginalized in legal discourse. Manifest and latent content analysis are employed to determine the degree to which feminist discourses on wife battering have had an impact upon legal discourse in justice policies. The sample consists of thirteen policies published between 1986 and 1997 in provinces and territories across Canada.

A manifest analysis of the data revealed that feminist discourses were more often employed to discuss the roots and complexities associated with wife battering than non-feminist analyses. In fact, approximately 95.5 per cent of analyses found in justice policies were devoted to feminist discourses, whereas non-feminist analyses represented less than five per cent of the total coverage of analyses of wife battering. These findings suggest that feminist discourses have been incorporated into the analytical aspect of legal discourse in justice policies relating to wife battering in Canada.

Latent content analysis was employed to discern underlying trends in the data. This more in-depth analysis indicated that law continues to marginalize feminist discourses in justice response policies. Moreover, the data revealed a number of contradictions between feminist and legal discourses which appeared to empower law rather than women.

Also, feminist critiques of the criminal justice policies appeared to be marginalized in legal discourse. For instance, discussions which emphasize the potential of the justice system to eliminate wife battering disregard the limitations of traditional justice approaches. Finally, it seemed that women's needs were more likely to be emphasized when they coincided with the needs of the justice system.

While law's ability to marginalize feminist discourses was substantial, feminist strategies were successful in some cases, and women's needs and experiences have become part of the legal discourse on wife battering in justice policies.

In conclusion, it is argued that feminism should continue to press the law to respond to women's experiences, needs and concerns. As the findings from this study have indicated, legal discourse is a powerful determinant in the defining of wife battering in justice policies. However, feminism has demonstrated its potential to redefine the truth of events to some extent, and it should continue to challenge law's power to define and disqualify.

INTRODUCTION

Over the last two decades, feminists have sought to make women's experiences more visible to society and have demanded that the state and its various institutions respond to women and women's issues. Notably, they sought to call attention to the pervasiveness and seriousness of male violence against women in intimate relationships. This movement, which emerged in the 1970's in Canada, is more commonly referred to as the battered women's movement (Comack, 1993).

Feminist discussions of woman abuse have reframed the way these crimes against women have been discussed and defined. In sharp contrast to conventional writers who look to family dysfunctions to explain violence in intimate relationships, feminists have understood domestic violence as a structural problem in which it is primarily women who are abused by men (Kurz, 1992). It should be noted, however, that feminist perspectives on woman abuse are diverse and reflect a variety of political beliefs. For instance, each perspective has its own conception of the roots of gender inequality, its own conception of the consequences of that inequality, and its own particular strategy for social change (Tong, 1989).

In addition, feminist analyses of wife battering have called into question and sought to correct the gender biases which have existed in the underlying assumptions and explanations of violence against women. Gelsthorpe and Morris (1990) suggest that feminist responses to this issue have been twofold. First, they have sought to address the needs of victims through the creation of refuges, shelters and rape crisis centres. Second, they have sought to address victims' needs indirectly through pressure for law reform and changes in criminal justice policy and practice.

In recent years, however, there has been increasing debate over whether engagement with the state, specifically the criminal justice system, has advanced or limited the movement to end male violence against women (Ursel, 1991). In the case of wife abuse policies and programs in Canada, some feminist writers have focussed on the negative consequences of state involvement (Currie, 1990; Hilton, 1989; Snider, 1991). Their criteria for measuring success or failure have focussed on the state's impact on the battered women's movement. For example, Hilton (1989) argues that "the very issues which necessitated the recognition of wife beating as a social problem have been refined and even reversed through government cooption of the problem" (p. 314).

In a similar vein, Lauren Snider (1991) examines the problems encountered when feminists employ the criminal justice system to promote their concerns. She argues that relying on the criminal justice system will delegate more power to it which will result in less visible and therefore unmonitored control over women's lives. The system, in short, is not a reliable ally.

Jane Ursel (1991), in sharp contrast, has been sceptical of women who announce the failure of the battered women's movement. She argues that analyses which suggest the failure of the battered women's movement have relied on an overly deterministic model of the state whereby the state's involvement in this social problem is viewed as "corrupting, coopting and depoliticizing" (p.263). Ursel takes the position that the success or failure of the movement should be measured in terms of the impact that changes in the criminal justice system have had on the lives of battered women and women at risk. In her review of recent changes in the criminal justice response to wife battering in

Manitoba, she argues there have been real changes with beneficial results for women (Ursel, 1991).

Although it would appear that there is little agreement over the success or failure of the movement, Comack (1993) suggests that these feminist writers have all made valid points. She argues that one lesson learned has been that “realizing meaningful reforms is no easy or straightforward matter” (p.4). Therefore, while relying on the criminal justice system to promote feminist concerns and meaningful reforms may not be advisable (Snider, 1991), the reality is that the criminal justice system offers a potential course of action for women who are abused by male partners (Ursel, 1991).

Since the late 1970's and early 1980's, battered women and their advocates have demanded reforms to the criminal justice response to wife battering in Canada. MacLeod (1987) argues that these reforms were, in part, a reflection of the demands of battered women and their advocates who sought to bring the inequities and limitations of the criminal justice response to the attention of policy-makers and criminal justice agents. Above all, the advocates for battered women demanded that wife battering be recognized and treated as a crime. They also called for increased sensitivity by criminal justice agents towards battered women and a greater recognition of their needs (MacLeod, 1987).

Recently, a number of criminal justice-related initiatives have been undertaken in Canada to respond to the concerns of battered women and their advocates (MacLeod, 1987). MacLeod (1987) argues that these changes in policy and practice have had a dramatic effect on the criminal justice response to wife battering. Some of the major criminal justice initiatives include the following: changes in sexual assault legislation and

amendments to the Canada Evidence Act; changes in police charging policy, notably mandatory charging; sensitivity training for criminal justice agents, and court-related programs designated to handle wife battering cases (MacLeod, 1987). Although a number of reforms have been made to the current system, many of the concerns of women have only partly been addressed.

In addition, various feminist scholars argue that engaging the criminal justice system to fight against wife battery in Canada has transformed wife abuse from a social issue to strictly a policing issue (Currie, 1992; MacLeod, 1994). Unfortunately, this redefinition has limited responses to wife battering to the confines of existing institutions. As such, the state appears to have responded to feminist demands and a meaningful redistribution of power is avoided.

A review of the literature reveals that few studies have sought to address the extent to which feminist discourses on wife abuse have been incorporated into criminal justice policy in Canada. Given this gap in the literature, it is difficult to assess the extent to which women's experiences of violence in intimate relationships have been acknowledged in criminal justice policy. As such, this leaves many unanswered questions about the impact that feminist discourses on wife battering have had on criminal justice-related policy reforms.

PURPOSE OF THE STUDY

To address this gap in the literature, this study employs content analysis to examine the extent to which feminist discourses on wife battering have been incorporated

into criminal justice policies in Canada from the mid 1980's to the late 1990's. Sets of categories have been constructed in an attempt to discern the influence that feminism has had upon legal discourse in criminal justice policies. Given the lack of information about the influence of feminism on Canadian criminal justice policy with respect to wife battering and the interest in responding to women's concerns and demands, it seems both important and appropriate to explore these policies.

Criminal justice policies, specifically provincial and territorial criminal justice directives relating to wife battering, were selected because of their potential impact on criminal justice-related responses to wife battering. Moreover, Edwards (1990) suggests that these policies challenge the cultural climate characteristic of previous nonregulation of wife battering.

Criminal justice policies are, however, developed within a social, political, and economic context. For example, the discourse which is likely to sway policy-makers "turns on questions of ownership, recognition, territory and interest" (Rock, 1986, p.286). Thus, policies are moulded by those who have been included in the political process of policy formation. Also, the influence of those who participate in the process of policy-making is relative to the political power held by others in that process.

Recognizing these dynamics, this study sought to examine the degree to which feminist discourses on wife battering have been incorporated into criminal justice policy in Canada. Within this context, this study addresses the following questions:

1. To what extent have feminist analyses (e.g. radical feminist, socialist feminist, Liberal and Aboriginal women's perspective) of wife battering been incorporated into criminal justice policies at the provincial and territorial level in Canada?

2. To what extent has feminism had an impact upon legal discourse on wife battering in criminal justice policies at the provincial and territorial level in Canada?

JUSTIFICATIONS FOR THE STUDY

A review of the literature has revealed that little is known about the extent to which feminist discourses on wife battering have actually been incorporated into Canadian criminal justice policy. The findings from this study should contribute to a better understanding of this impact, and serve to illustrate the potential and limits of feminist engagement with the criminal justice system.

As various authors suggest, if society is to improve its response to wife battering, it must adopt feminist discourses which describe women's experiences of violence in intimate relationships (Kurz, 1992). Women's experiences of violence must be part of the discourse if their needs, concerns and demands are to be met. Traditional criminal justice responses to wife battering have encompassed men's accounts of events because it is men who both legislate and interpret the law. Thus, women's accounts, women's experiences and women's demands have been marginalized in criminal justice policy and practice (Gelsthorpe & Morris, 1990). It is important that wife battering be described by women in their own frames of reference if their needs and concerns are to be properly understood and addressed. In addition, it is thought that feminist discourses on wife battering will

counter stereotypical assumptions about battered women which negatively impact the criminal justice response to woman abuse.

This study also addresses the current debate in the literature over whether involvement with the state, and the criminal justice system in particular, has led to the success or failure of the movement. As previously mentioned, Ursel (1991) argues that the success or failure of the movement should be based on whether there are a greater number of options available to battered women than there were prior to state involvement. Kurz (1992) suggests that women's options may be expanded if feminist discourses are included in criminal justice policy. Also, by examining the extent to which various feminist analyses of woman abuse have been incorporated into policy, attention will be directed to those feminist discourses which have been excluded or marginalized in criminal justice policy.

The inclusion of feminist views on battering in criminal justice policy may have far reaching social and political benefits. Feminist approaches to wife battering that call for structural change could have a system wide impact (Kurz, 1992). Also, some researchers suggest that the criminal justice system plays a symbolic role in shaping emerging values in our society. Specifically it denotes behaviour that society will tolerate and that which it will not condone (Edwards, 1990; MacLeod, 1987). MacLeod (1987) argues that it is this function which demonstrates the potential of the criminal justice system to promote change in societal attitudes and responses to wife battering.

Given these contributions, then, studying the incorporation of feminist discourses on wife battering in criminal justice policy is a useful and important undertaking. In

calling attention to the progress that has been made and the challenges that have yet to be met in the criminal justice response to wife battering, this study can be seen as an important step towards articulating women's experiences, and responding to the needs and concerns of battered women.

LIMITATIONS OF THE STUDY

The study is restricted to an analysis of the extent to which feminist discourses have been incorporated into criminal justice policy on wife battering in Canada. While some feminist discourses on woman abuse may appear in other government publications and policy directives, this study is restricted to criminal justice. Moreover, the incorporation of other discourses in criminal justice policy on woman abuse are not examined.

In addition, because this study employs traditional content analysis which focuses on identifying special characteristics of messages in artifacts of social communication (Berg, 1995), the sources of those messages are not examined. It would, therefore, be useful to study the policy-making process more in-depth by surveying or interviewing key participants in that process. Also, the practical use and impact of criminal justice policy on criminal justice agents cannot be explored through content analysis. It would be useful, therefore, to examine the influence of past decisions and outcomes, personal biases of criminal justice agents and institutional constraints which affect the decision-making process (Berk and Loseke, 1980).

Finally, a further limitation of content analysis is its inability to test causal

relationships between variables (Berg, 1995). While the frequency of a theme may indicate the magnitude of certain responses, it cannot be linked to a cause. Similarly, it is not appropriate to attach the magnitude of a theme to possible effects or outcomes. As previously mentioned, the interpretation of policy by criminal justice agents is influenced by a number of variables which will affect the practical use of policy.

DEFINITIONS OF OPERATIONAL TERMS

Feminist Discourses. A formal speech, writing or a form of communication which suggests that women experience social, political and economic discrimination on the basis of their gender and which endeavours to change the conditions that produce women's subordination (Bouchier, 1983).

Feminists Views of Wife Battering. "A feminist view of battering is one based on an understanding of battering as a structural problem in which it is women, primarily, who are abused by men" (Kurz, 1992, p.28). In addition, women's subordination is central in their analyses of violence (Bograd, 1988; Kurz, 1992).

SUMMARY

This study employs both manifest and latent analyses to examine the extent to which feminist discourses on woman abuse have been incorporated into criminal justice policy at the provincial level in Canada. The data generated from these analyses are presented in Chapter Five. Prior to the review of any of this material, however, Chapter Two presents a discussion of various feminist perspectives on woman abuse in Canada as

well as an overview of the battered women's movement and the Canadian state. This chapter serves as a review of the literature, and as such, provides a review of changes to the criminal justice response to wife battering.

Chapter Three, in turn, presents a discussion of Carol Smart's (1989) Feminism and the Power of Law, which serves as the theoretical underpinning for this study. The hypothesis that was generated from this theory and subsequently tested in the course of this research is also presented. The fourth chapter reviews the content analysis research design that was employed in the course of the research while the fifth chapter presents the research findings. The sixth chapter provides a discussion of the research findings while the seventh and final chapter provides an overall summary of the study.

CHAPTER TWO

REVIEW OF THE LITERATURE

Over the last two decades, concern has emerged about whether engagement with the state- and the criminal justice system in particular- to put an end to the abuse of women in intimate relationships has been a success or a failure (Comack, 1993). As a result, a number of feminist writers have begun to examine the potential of the criminal justice system to incorporate feminist demands for structural change, and to explore the limits of this strategic approach.

The purpose of this review is to examine the impact of feminist engagement with the state and the criminal justice system. First, however, four feminist perspectives will be presented in order to illustrate differences in feminist approaches to the issue of violence against women in intimate relationships, and their view of the role of the criminal justice system.

Feminist Approaches to Male Violence Against Women in Intimate Relationships

Various feminist perspectives emerged during the second wave of the feminist movement in the late 1960's and early 1970's. The political movements that came into being during this period gave way to a radical questioning of gender roles and led to a major restructuring of institutions world wide (Nicholson, 1997). Nicholson (1997) suggests that there are two separate political movements which materialized during this

period: the Women's Rights Movement and the Women's Liberation Movement¹. The first was composed largely of professional women who struggled to end discrimination in the workforce. The second was a more politically widespread movement where the majority of theoretical writings of the second wave first appeared (Nicholson, 1997).

As various authors suggest, it is as a result of the second wave of feminism that wife battering emerged as a social issue. Wife battering has been defined as:

The misuse of power by a husband, intimate partners (whether male or female), ex-husband, or ex-partner against a woman, resulting in a loss of dignity, control and safety as well as a feeling of powerlessness and entrapment experienced by the woman who is the direct victim of ongoing or repeated physical, psychological, economic, sexual, verbal and/or spiritual abuse. Woman abuse also includes persistent threats or forcing women to witness violence against their children, other relatives, friends, pets, and/or cherished possessions by their husbands, partners, ex-husbands, or ex-partners. Woman abuse is integrally linked to the social/economic/political structures, values and policies that create and perpetuate inequality (MacLeod & DeKeseredy, 1997, p.5)².

Wife battering, then, encompasses all relationship based violence directed at women. It is noteworthy that violence may qualitatively change the nature of the relationship even if it was previously characterized by a degree of psychological abuse. Bograd (1988) argues that physical violence threatens a women's sense of personal safety and bodily integrity; it intensifies the meaning of threats and humiliation.

¹Although Nicholson was describing the emergence of second wave feminism in the United States, the Women's Movement in Canada followed a similar progression.

² Linda MacLeod has contributed a great deal of work regarding the nature and pervasiveness of wife battering in Canada over the last two decades. Notably, her first study published in 1980 played an influential role in bringing about reforms to the justice system. Also, a definition similar to the one cited above first appeared in her 1987 study entitled Battered But Not Beaten.

Although consensus exists regarding the harmful consequences of battering, feminist perspectives on the causes and solutions to wife battering sometimes diverge. Feminist approaches to woman abuse are diverse and reflect a variety of political beliefs. While gender is of central importance, each perspective has its own conception of the roots of gender inequality, of the consequences of that inequality, and of the best strategy for social change (Tong, 1989).

There are three common dimensions to feminist perspectives on woman abuse. First, gender and power are central to the explanation of woman abuse. As various authors suggest, feminists view violence against women in intimate relationships as understandable only when it is examined in relation to its social context (Bograd, 1988). For example, gender is of central and critical concern to feminists who argue that society is structured along a dimension of gender inequality (Gelsthorpe & Morris, 1990) and that men have the power to act abusively as a way to control their female partner. Moreover, feminists contend that men's power is endemic in our culture and contributes to the domination of women at the social level (Gelsthorpe & Morris, 1990).

Second, many feminists analyse the family as a historically situated social institution. They suggest that the family as a social institution is not a monolithic unity that oppresses women. In order to comprehend how the family may oppress women, the functions, structures and processes which characterize families must be examined in their particular sociohistorical context (Bograd, 1988). For instance, both historically and in the present, social institutions "have permitted and condoned the use of physical abuse by husbands to control wives" (Kurz, 1992, p. 27). In addition, many feminists believe that

social and legal norms still support male violence against women as a means of control in marriage (Kurz, 1992). It is the sociohistorical context, then, which shapes the dynamic of woman abuse, its social acceptance and its meaning (Bograd, 1988).

Finally, feminists assert that women's experiences of violence in intimate relationships need to be validated and understood (Bograd, 1988). Moreover, in order to fully understand the complexities of wife battering, the experiences of women must be illuminated from their own frames of reference. Without asking women about their experiences of abuse, current theories and interventions may revictimize battered women. For example, mandatory charging policies are not driven by the woman's wishes, and they do not acknowledge her experiences of violence nor the relationship dynamics often associated with abusive relationships.

As previously mentioned, feminist approaches to violence against women in intimate relationships emanate from a variety of sources and perspectives. Each perspective differs in the way it defines fundamental problems and their causes, and in its suggestions to eliminate or alleviate these problems (Alleman, 1993). There are a number of divisions of feminist thought which reflect the diversity of feminist perspectives in Canada. However, for the purposes of this study, only four perspectives will be examined in detail. These feminist approaches to woman abuse include: liberal feminism, radical feminism, socialist feminism and the aboriginal women's perspective.

Liberal Feminism

Liberal feminist thought has often been called the "public face" of the feminist movement which emerged in the 1970's in Canada (Findlay, 1988). Like other feminist

perspectives, women are of central concern to liberal feminists. The primary goal of liberal feminism, however, differs from other feminist perspectives because it aspires to full equality and participation in society, specifically attaining equality between men and women, by working within the established political and legal structure of society (Alleman, 1993). As such, the liberal feminist construction of gender justice requires that women and men be treated the same and that no one be systematically disadvantaged in terms of success in the capitalist system of economics (Tong, 1989).

Liberal feminist thought finds its roots in the philosophical doctrine of liberalism. The liberal perspective values the free expression of individual personality and favours a form of government in which individual freedom is central; a just society allows individuals to exercise their autonomy and fulfill themselves (Tong, 1989). Because Liberals favour the expansion of opportunity, they believe that the state must intervene when opportunities are not open to all people. It is this philosophy, which lies at the root of democracy as well as at the root of social and civil struggles, that guides liberal feminist thought (Alleman, 1993).

Drawing on liberalism, Alleman (1993) suggests that liberal feminist thought is built on three premises. Firstly, liberal feminists see women's oppression as rooted in women's lack of equal civil rights and educational opportunities. They advocate programs that promote equal access to all social, political and economic resources (Descarries-Bélanger & Roy, 1991). As such, liberal feminists have subverted the liberal principle of minimum state intervention. Secondly, because liberal thinking values the free expression of individual personality, liberal feminists object to government intrusion into the public

lives of women, particularly in terms of women's sexuality and control over women's reproductive processes. Finally, according to this perspective, ideological discourses which devalue women must be rejected.

Liberal feminists tend to recommend the adoption of measures that can be accommodated within the existing social structure. In fact, they suggest that the criminal justice system may be a vehicle for symbolic social change. The liberal feminist approach to criminal justice centres on equality before the law for men and women (Nicholson, 1997). Currie (1992) suggests that liberal feminists view the law as "an important arena of feminist intervention because it both mirrors and shapes our culture, thereby not only reflecting but also contributing to the development of shared meanings and aspirations" (p.256).

From a liberal perspective, the major problem is that the law currently sanctions the differential authority of men over women, specifically husbands over wives. Their focus on traditional legal responses to wife abuse leads many liberal feminists to begin their analysis by looking at the need for law reform (Currie, 1992). For example, MacLeod (1980, 1987) identifies the criminal justice system as an important ally in the fight against wife abuse in Canada. Moreover, in her 1980 report which influenced various criminal justice reforms with respect to wife abuse, she emphasizes the symbolic dimension of law as a deterrent and suggests that "a clear, publicly advertised policy applying the same standards of non/arrest to family violence as to assault outside the family" (MacLeod, 1980, p.64). It is noteworthy, however, that in her 1987 report, MacLeod acknowledges that the increased emphasis on the use of shelters, use of police

and courts, and referrals to agencies cannot be deemed an unqualified success. While the police may play an important role in redefining the abuse for the woman, mandatory arrest policies also make turning to the police a less desirable option for many women who seek state intervention (MacLeod, 1987).

A number of feminist scholars are critical of the liberal feminist approach to woman abuse. Radical and socialist feminists writers, for example, have criticized liberal feminists for failing to challenge the status quo. They argue that gender equality demands cannot be met without radical social transformation. For instance, Currie (1992) argues that gender equality demands have not been addressed by the criminal justice system since the current system does not redistribute power to women. In addition, Klein (1979) argues that a weakness of the liberal feminist position is that they view the state as “a neutral force which can be exploited and which has no class character of its own” (p.28). This criticism suggests that liberal feminists may not have accounted for the complexity of state institutions nor the power of the criminal justice system to strengthen its responses while appearing to respond to feminist demands.

Radical Feminism

Radical feminist approaches to crime and criminal justice have significantly influenced feminist thought. This perspective, which adopts a woman-centered view of the world, demands the restructuring of various aspects of social life (Descarries-Bélanger & Roy, 1993). Radical feminists refuse to accommodate the social, economic and political institutions and systems which oppress women.

While there are various strains of radical feminist thought, in general radical

feminists argue that patriarchy is the central and fundamental source of women's oppression: "it is not just patriarchy's legal and political structures that must be overturned; its social and cultural institutions (especially the family, the church, and the academy) must also go" (Tong, 1989, p.3). Radical feminists suggest that as long as the avenues of power such as business, medicine, law politics and academics, are controlled by males, women will continue to either be confined to the home or segregated into the lowest paying jobs (Tong, 1989).

In addition, radical feminist thought identifies men and the norm of heterosexuality as the basis of women's subordinate position in society. Radical feminist writers question the concept of the natural order and seek to overcome whatever negative effects this concept has had on women and perhaps men as well (Tong, 1989). Alleman (1993) argues that for radical feminism, all social practices must be examined in order to analyse their sexist and oppressive nature so that they can be reformulated to exclude male power and privilege. This reconstruction is believed to be necessary because many aspects of our culture are shaped by the belief that men are superior to women and that heterosexuality is natural. Male domination is the fundamental origin of female subordination (Alleman, 1993).

In a similar way, Michele Beaudry suggests that radical feminists view the victimization of women as "symptomatic of the condition of women in general in much the same way that rape is seen as symptomatic of sexual oppression of women in society" (Beaudry, 1985, p.97). She also notes that radical feminism is not simply a critique of patriarchal society but also a means through which new social relations can be explored

and developed, in particular through solidarity amongst women.

Because radical feminism identifies sexuality as a central element of male dominance, it should not be surprising that radical feminist research has “spotlighted the nature and the pervasiveness of violence against women” (Messerschmidt, 1993, p.167). In her radical feminist analysis of violence against women and children in Canada, Lorene Clark (1989) argues that violence against women in intimate relationships is a function of the fact that women were historically the legal property of husbands. Traditionally, law has legitimated and justified men’s exercise of authority over women, especially in the areas of sex and reproduction. Clark also suggests that legal and social legitimation of male violence against women has structured men as the dominant advantaged group and women as the subordinate disadvantaged group. Moreover, she argues that criminal justice substance and process reflects what men as a group find harmful and want regulated “within a system in which they have, and are legally protected in having, a right to exercise private authority over women” (p.425).

To effectively prevent or reduce the incidence of wife abuse, Clark (1989) calls for the creation of a feminist criminal justice system. The primary goal of this system would be the regulation, control and ultimate elimination of private violence, specifically violence directed at women and children. In addition, women who have been victimized by their partners must be assisted and supported in their efforts. Many women do not take their battery or abuse of their children into the criminal justice arena because they do not want their husbands to go to jail. For instance, in many cases when a woman calls the police for help with an abusive partner, she is not declaring an end to the relationship. She is asking

for help in controlling his violence. Even at the point of prosecution, many women are asking the court for “help” for their abuser rather than imprisonment (Ferraro & Boychuk, 1992). Clark suggests that these men need treatment in the form of support and counselling, not incarceration. Jails must not be seen as the solution, in fact, they are a large part of the problem because they reproduce power relationships between men similar to those experienced by women .

Although radical feminism was able to move sexuality and gender power to the forefront of feminist thought, it has been criticized for its reductionist analysis which suggests that all men are oppressors. Also, this feminist perspective suggests that females are generally sympathetic and compassionate and it does not account for various forms of female violence (Messerschmidt, 1993).

Socialist feminism

Socialist feminist theory can be thought of as a synthesis of traditional Marxist and radical feminist perspectives. Where previous theories have focussed primarily on capitalism or patriarchy as the powers which shape social relations, socialist feminist theory points to the need to understand social organization by examining how these power relations are interconnected and mutually dependent (Messerschmidt, 1986). As such, this perspective places its emphasis on integrating all aspects of women’s lives (Tong, 1989). Moreover, under patriarchal capitalism, males in all social classes are powerful since they have power over women. This allows males to engage in crimes that maintain their dominant position. Crimes such as woman abuse and other acts of domestic violence are forms of domination and control of the powerless.

A number of feminists have sought to examine the impact of patriarchal capitalism on Canadian society and criminal justice (Currie, 1992; Snider, 1991). Currie (1992) begins her analysis by arguing that as a broader political movement, wife abuse is a problem linked to women's disadvantaged position in the Canadian economy, their subsequent dependency upon men, and their isolation within a privatized family setting. In other words, wife abuse is rooted in social structures and in women's disadvantaged social position.

In addition, Currie argues that current programs designed to prevent or minimize wife battering are limited because they have been incorporated into existing institutions. She states that "in the move to broaden the mandate of both the police and the courts, wife abuse has been accommodated within the criminal justice system while the fundamental challenges that gender equality demands have not been addressed in any way" (p.270). By directing intervention at the criminal justice system, Currie (1992) believes that reforms and other intervention avenues are limited since criminal justice tends to extend its power by calling for a law and order approach to social problems. Also, while appearing to respond to feminist demands for reform of the criminal justice system and for social change, the state increasingly can argue that it has met the needs of victims and women in general while still maintaining the status quo.

In light of this analysis, it is not surprising that Currie does not equate criminal justice with justice for women. She does, however, suggest that a criminal justice perspective needs to be replaced, at least temporarily, by a woman-centered approach which allows for real diversity in intervention.

Much like radical feminism, socialist feminism has been criticized for the use of the term patriarchy as this term tends to restrict “the theoretical explorations of historical variation in masculine dominance” (Messerschmidt, 1993, p.57). As well, Smart (1987) argues that socialist feminist criminology has ignored social action. It does not account for the intentions of actors or how action is meaningfully constructed (Messerschmidt, 1993).

Aboriginal Women’s Perspective

In the early 1990's, the influence of Aboriginal and other minority women has broadened definitions of violence to include structural violence. Consequently, definitions of violence now encompass the violence of poverty, racism and inequality. It is this type of abuse which creates spiritual and emotional wounds that are difficult to heal (MacLeod, 1994). While feminist theorists and activists have been successful in developing insights about the pervasiveness of violence against women from all classes, they have been less successful in theorizing the complexities of violence as they relate to Indigenous peoples in Canada.

Various authors recognize that the Canadian women’s movement represents the voices of white middle class women (Findlay, 1988, Lawrence, 1996). Bonita Lawrence (1996) contends that the feminist emphasis on universal experiences of gender oppression has marginalized the voices of survivors whose realities are shaped by poverty and racism. Furthermore, unlike women of colour who struggled to make the feminist movement more inclusive, Aboriginal women have conceptualized the problem of violence against women in intimate relationships differently from other feminist discourses. They believe that the

Canadian feminist movement is still colonial at heart (Lawrence, 1996). As such, they argue that their concerns will be secondary in nature to the concerns of their Caucasian counterparts.

The Aboriginal women's approach to violence against women in intimate relationships connects Aboriginal family violence to the colonization process, not only because colonization is patriarchal, but because survival for Aboriginal men is also threatened in Canadian society. In sharp contrast to other feminist discourses on wife battering, Aboriginal women reject the notion that all traditional societies were necessarily patriarchal. Instead, they point to the manner in which Aboriginal women have been regarded as sacred and to the strong roles that Aboriginal women have always played in public life (Lawrence, 1996). In many cases, Aboriginal women are looking to the Traditions as a means of regaining respect and power as women.

Unlike some Western feminists, many Aboriginal women view the family not only as a site of cultural nurturance ripped apart by colonialism, but as intrinsic to strong human relationships. They contend that society will always be extremely violent until the underlying processes which maintain a colonized relationship between Indigenous people and settlers are addressed. Also, traditional Aboriginal perspectives see despiritualization as central to this society's ongoing degradation of women. The underlying assumption is that violence is a learned behaviour and that it must be unlearned. Therefore, the need to heal the whole community and to develop holistic, culturally appropriate, community-based solutions based on the tradition 'four directions' (honesty, kindness, sharing and strength), is emphasized (MATCH International Centre, 1994).

In addition, Lawrence argues that Aboriginal programs for dealing with violence against women are forced by the pervasive nature of violence faced by Aboriginal women, to develop more holistic approaches to violence against women. It is noteworthy that aboriginal organizations have often become strong advocates of removing abusive men from the family homes. Proponents of this intervention strategy suggest that temporary housing for abusers is needed so that the abused woman and her children can remain in the family home. Lawrence states that “if this society is to survive at all, it must begin to take holistic approaches, and to think in terms of healing, both women and men” (p.33).

The Aboriginal women’s perspective on wife battering in Canada has only begun to emerge. Due to a growing awareness of violence in Aboriginal communities in Canada, this perspective has begun to have an impact on policy discussion and debates. Criticisms of this perspective are not as well documented. There is some concern, however, as to whether or not a holistic approach will work in non-Aboriginal communities or in Aboriginal communities that have been torn apart by violence and poverty.

In summary, then, a wide variety of feminist perspectives on wife battering have appeared in Canada. The sociohistorical context, specifically the battered women’s movement, which led to the emergence of these perspectives is discussed in the following section.

Wife Battering and the Women’s Movement

The battered women’s movement emerged out of the second wave of feminism which materialized in Canada in the late 1960’s and early 1970’s. It is through the efforts

of community-based women's groups, women's centres and consciousness-raising groups that crisis shelters and transition houses for women who are abused and for their children were established (MacLeod, 1994). These early transition houses, while often supported by government funding, were governed by a principle of 'women helping women'. Furthermore, these groups identified wife battering as a political issue that signalled the need for structural change (Currie, 1990; MacLeod, 1994).

While women's groups sought to raise public concern about the existence and nature of wife battering, they also called for a critical approach to the ways in which society enabled the assault of women in the home to continue (Hilton, 1989). In order to mobilize and to formulate strategies that would lead to solutions, feminists sought to identify and analyse the causes of male violence against women in intimate relationships (Walker, 1990). A lack of consensus among feminist discourses on wife battering, however, soon became obvious.

Two fundamentally opposed feminist positions emerged in the late 1970's. On the one hand, radical³ feminist approaches to wife battering, which identify men as the primary perpetrators of violence against women, question the basis of women's oppression in the family and the role that social institutions played in maintaining that oppression (Currie, 1992; Walker, 1990). This group called for radical change in the social structure. On the other hand, liberal or reformist feminists sought to improve the status of women by reforming existing social institutions. Because wife battering is

³ In this context, the term 'radical' is used to refer to various radical feminist and Marxist/socialist feminist analyses of wife battering in Canada.

identified as an example of the male domination of women throughout history, proponents of this position suggest that wife battering could be remedied by professional intervention at appropriate levels, specifically in the areas of social welfare and criminal justice (Currie, 1992; Walker, 1990).

A third mainstream position also emerged during this period which, in some cases, connected feminists to a professional framework. The family violence perspective, influenced by the work of Straus, Steinmetz and Gelles (1980), suggests that all family member carry out and are victims of violence. This approach to wife battering views the expression of anger by males as an inappropriate expression of human emotion. Walker (1990) states that “this position did not pose a contradiction when it came to developing modes of professional intervention to be offered by agencies and institutions and supported by the state” (p.34). In spite of some feminist support, many feminists argue that this approach minimizes the importance of the dimensions of male domination because sexual inequality is addressed as simply one factor among many (Bograd, 1988).

To summarize, formulating analyses of male violence against women was the first stage in the process of organizing the fight against wife battering in Canada. Following this step, feminists were in a position to translate wife battering to the purview of the state. The following section describes how the issue of wife battering emerged onto the national scene.

Wife Battering and the Canadian Government

Once analyses to make the issue of wife battering actionable in general terms were

formulated, it was necessary to coordinate efforts to get something done about violence against women in intimate relationships (Walker, 1990). The women who worked to make women's experiences of violence and brutality visible needed to access the resources to continue their work, yet at the same time maintain control over how services would be provided. Also, women in the movement sought to affect public policy and to challenge traditional institutional responses to wife battering.

As previously mentioned, widespread interest in wife battering in Canada originated in the 1970's through the efforts of women's groups who stressed the political nature of the issue and signalled the need for structural change. As public awareness and knowledge of the issue grew, many women's groups became concerned that not enough was being done to address the immediate danger faced by women and their children who are battered. Women's groups in turn began to lobby the government for the protection of battered women and their children through criminal justice reform and funding for shelters (Hilton, 1989). This was a turning point in the battered women's movement.

Although the movement in Canada was essentially made up of regional women's groups, a number of task forces, commissions and consultations were organized at the national level to respond to women's issues. The Royal Commission on the Status of Women, for instance, was established in 1970 to review federal, provincial and territorial regulations, legislation, practices and policies affecting the equality of Canadian women (Begin, 1991). In fact, the Royal Commission published a report which sought to address women's concerns regarding social and economic life and to "define government responsibilities for reform in a more comprehensive way" (Hilton, 1989, p.323). It is

noteworthy, however, that in spite of its objective of addressing women's concerns, the report failed to mention women as victims of violence.

It was not until the late 1970's that a general plan of action was submitted at the national level. Towards Equality for Women was released by the office of the Status for Women Canada in March 1979. This document, which included violence against women among its major areas of concern, proposed to undertake a major study of wife battering in Canada. This study, which aimed to develop a comprehensive coordinated approach to wife battering, was to involve a coordinated effort between the departments of Justice, The Solicitor General and National Health and Welfare Canada (Walker, 1990). These departments were influential in shaping the direction of social responses to wife battering.

Later that same year, the first national study on wife battering was undertaken in Canada and subsequently published by the Canadian Advisory Council on the Status of Women (CACSW) in January of 1980. The book, entitled Wife Battering in Canada: The Vicious Circle, described the extent of wife battering in Canada and called for the reform of various social institutions which were said to contribute to the private nature of wife abuse, notably the law and criminal proceedings. This Report, which subsequently informed Canadian government policy on wife battering, was the first of its kind to be undertaken in Canada. It played an instrumental role in the growth of shelters and in emphasizing the criminal nature of wife battering.

This study, which was conducted in 1978 by Linda MacLeod, was based on a sample of women who stayed in the seventy-three transition houses and shelters for battered women across Canada. One of the accomplishments of this study was to

document the pervasiveness of wife battering. From her sample, she estimated that “one in ten women who are married or in a relationship with a live-in lover are battered” (p.21). Furthermore, she estimated that at least 24 000 Canadian women were battered by their male partners in 1978.

Throughout this report, MacLeod argues that the roots of wife battering can be located in a historical context which has traditionally accepted a man’s authority within the family. She suggests that society has condoned wife battering within the privacy of the family home and she notes that wife battering as part of men’s control of their female partner, reinforces and perpetuates women’s economic dependence. Accordingly, she asserts that change will come about only when cultural beliefs regarding sex roles, gender equality and power are made visible and challenged.

As a result of her interviews with workers and women using shelters, MacLeod identified a number of key concerns. The responses of various professionals, friends and family approached by battered women for help were particularly disappointing. For instance, she suggests that many doctors characterized wife battering as a psychiatric problem suffered by women. Some women were also shocked to find that their family and friends were telling them they had exaggerated the extent of the abuse. They were told to try to be better wives and to return to their homes. The police and legal responses was also discouraging. Currie (1990) states that requests for police protection were being dealt with as “crisis intervention” rather than assault (p.84). As women described their experiences with the police, it appeared that the police response stopped short of actually arresting the man (MacLeod, 1980). It seemed that women who were abused by their

male partners were caught in a world “of professionals and friends who systematically deny the reality” of their experiences (MacLeod, 1980, p.40).

As a result of these findings, the CACSW Report made a number of recommendations to help battered women. The Report advocated immediate action to protect battered wives and their children. Programs for long range prevention, such as improved crisis intervention, more transitions houses and education and training for legal, medical and social service professionals, were identified as integral to alleviating women’s economic dependence (p.67). The call for immediate action, however, emphasized the role of the criminal justice system in preventing wife battering and responding to it. It is noteworthy that while MacLeod recognized the limits of a punitive approach to preventing wife abuse, she acknowledged that criminal justice reforms were needed if Canadian values, often influenced by law’s symbolic presence, were to change (MacLeod, 1980).

To conclude this report, MacLeod (1980) proposes a three part model of legal change based on five principles. First, because the criminal justice system serves a symbolic function in society, the law must be used to convey the message that assault is a crime whether it occurs inside or outside the home. Second, victims of assault need to be protected from their male abusers. Also, legal procedures should be designed in such a way so as to reflect the best interests of the woman who is abused by her male partner. Fourth, the woman who has been battered should receive as much information as possible with regard to her legal options and their likely consequences. Finally, the battered woman’s informed opinion should be taken account when legal options are being considered.

Following these five principles, a model of legal change was proposed. The model, which sought to reform the criminal justice response to wife battering, is based on three elements of legal change. First, MacLeod advocated “a publicly advertised policy applying the same standards of arrest/non arrest to family violence as assault outside the family” (p.64). Also, she demanded the establishment of services to work in conjunction with, but independent of, the criminal justice system. The goal of these services would be to inform the woman of the options available to her and to explain her role in the criminal justice system. Finally, the Report called for the development of an expanded range of options for bail and sentencing. It was hoped that these reforms would “attack some of the present inconsistencies in the legal procedure which produce weak policies” (p.65).

Following the publication of this Report, the CACSW organized a federal consultation as part of a strategy of making wife battering a public issue. It was anticipated that this consultation would bring women from the movement together with feminists in the bureaucracy to involve battered women in the process of determining appropriate federal government action on this issue⁴. Representatives from the women’s movement across Canada came to the consultation yet it appears that many were ambivalent with respect to the function of the council and its intentions (Walker, 1990).

The consultation gave women from the movement an opportunity to come together, pool resources and share information about battered women’s experiences.

⁴ Walker (1990) suggests that this was the ‘official’ goal of the CACSW. She argues that the consultation was part of a greater strategy on behalf of the council whose goal was to “legitimize its role in relation to women in general and the battered women’s movement in particular” (p.42).

Furthermore, it provided an opportunity for the distribution of materials and resources in the form of articles from popular and academic journals and written materials prepared by various women's groups. It also described the pervasiveness of wife battering and summarized the council's position. Walker (1990) argues that the distribution of materials played an important part in how a general discourse on wife battering was developed and disseminated at the informal level.

It remained clear, however, that there were a number of divisions between the women who attended the consultation. These divisions, as previously mentioned, were rooted in the contradictions between radical feminists who viewed women's oppression as fundamental to the social, political and economic organization of society and those who sought to reform the "unfair and outmoded legislation and administrative practices" of the state (Walker, 1990, p.46). For liberal feminists, equality could be achieved under just laws, therefore, they chose to carry out the struggle on the terrain of the state and the professions.

The CACSW's 1980 Report and the strategies advanced following the Federal consultation generated sufficient attention to alert the federal government to wife battering as an area of concern. A motion, which was carried unanimously by the House of Commons, was made by the Honourable Robert Howie in 1981 to establish a all-party federal Parliamentary committee to study the issue of family violence. A Standing Committee on Health Welfare and Social Affairs subsequently conducted public hearings in 1981 and 1982. During the course of these proceedings, a number of briefs were presented to the committee. Among those invited to speak were representatives from

women's groups, professional agencies and individuals (Walker, 1990).

While the recommendations made by the CACSW during these proceedings were endorsed by other advocacy groups, such as the United Way, provincial Associations of Interval and Transition Houses and local women's groups, there was a major point of contention over how wife battering should be treated in the legal system (Currie, 1990; MacLeod, 1980). The disagreement between groups was over whether family disputes should be accorded special treatment or whether the law should be generalized to apply to wife battering in its method of enforcement.

Feminists persisted in their attempt to have wife battering recognized in the public sphere. Accordingly, they struggled to have wife battering recognized as a crime under the Criminal Code. Proponents of this position argued that no one has the right to beat another person and that:

Defining men's violence as the crime of assault, for which they could be punished, offered a way to protect women by demanding that men be arrested, charged and imprisoned when necessary (Walker, 1990, p.47)

Women's groups advocated for treating wife assault seriously by routinely convicting and sentencing offenders (Currie, 1990). While many women were aware that reliance on the criminal justice system was filled with dangers, advocates of criminal justice argued that channelling cases of wife battering to Family Court would perpetuate the private nature of the issue (Currie, 1990).

In addition, feminist campaigns against wife battering increasingly called for the amendments to the Criminal Code such as the deletion of spousal immunity and a requirement that third parties who have knowledge of wife battering report it (MacLeod,

1980). Also, they called for a number of changes to criminal justice policies such as referring women who are battered to transition houses in all cases, carrying through with arrests when the woman does press charges and ensuring that police do not emphasize reconciliation where this is not the desire of the woman (MacLeod, 1980).

It may be useful at this point to summarize how the battered women's movement involvement with the Canadian government progressed. The battered women's movement in Canada was supported, in part, by the demands presented to the federal government by a group of white, middle class, educated women who wanted their voices heard in the halls of power (Findlay, 1988). Furthermore, the women's movement was originally characterized by a belief that government could be forced to respond to women's rights. Findlay (1988) argues, however, that this was made difficult since the state was not prepared to respond to the women's movement nor was it prepared to integrate feminist perspectives into the policy-making process. Although the women's movement did not lack commitment, it lacked expertise in how to reply to the government's response (Findlay, 1988).

Because of affirmations of political commitment to improve the status of women in the late 1970's, liberal feminists shifted their strategies to work in conjunction with the state. However, when policies did emerge, they proved to be difficult to implement because many state institutions were resistant to changes in the relations of power that sustained class, sex, and race differences (Findlay, 1988). Also, Findlay (1988) suggests that "the struggle has shifted from the parliamentary sphere to the bureaucracy and the criminal justice system" (p.7).

In the end, a substantial amount of research relating to the individual and structural complexities associated with male violence against women emerged as a result of the battered women's movement. The success of feminist perspectives was achieved through an organized struggle to define woman abuse as a problem rooted in patriarchy. In spite of these efforts, once woman abuse was accepted as part of the government's political agenda it was transformed from a critique of patriarchal power to demands for protection against male power (Currie, 1990). As such, the exercise of authority by the state and various state run institutions continue to undermine feminist struggles to have wife battering recognized as a widespread phenomenon in Western culture, one which is rooted in gender relations which oppress women.

Wife Battering and the Criminal Justice System

Some feminists argue that the criminal justice system plays a symbolic role in Canadian society by reflecting social norms and promoting emerging values (MacLeod, 1987). Because of its potentially influential position, many women's groups lobbied for criminal justice reforms and for the legal system to demonstrate its unwillingness to tolerate wife battering. Many battered women's advocates maintain that unofficial non-arrest policies by the police perpetuated the private nature of wife battering in Canada. Various authors also suggest that police have been reluctant to press charges, prosecutors have been encouraged to drop charges and judges have been reluctant to hand down harsh sentences (MacLeod, 1980; Snider, 1991). Part of this reluctance has been attributed to the widespread tendency of justice personnel to treat offenses which occur between family

members less seriously than stranger offences. Moreover, Ferraro (1989) argues this is connected to police stereotypes of battered women and patriarchal attitudes among criminal justice officials.

In response to criminal justice inaction, MacLeod (1987) contends that battered women and their advocates fought to have wife battering recognized and treated as a crime. Furthermore, this request was coupled with a demand for increased sensitivity by criminal justice agents towards battered women and a greater recognition of their needs. These demands, which were highlighted in the CACSW Report, were soon incorporated into criminal justice reforms.

In spite of these demands, it seems that the results of MacLeod's 1987 study indicate that many battered women do not consider the criminal justice response and its punitive sanctions appropriate. For instance, many women worry that a criminal justice penalty which involves a loss of income either through a fine or loss of employment will jeopardize their security and that of their children. In fact, it may be the case that many women call the police for immediate protection, for transportation to a shelter or to gain a degree of control over the violence by threatening the abuser with punishment. However, many women may not be prepared for a long-term follow through (MacLeod, 1987).

Because traditional criminal justice responses are not always appropriate, battered women and their advocates have lobbied for fundamental changes in the predominantly punitive approach endemic to our criminal justice system. Pursuant to these demands, many criminal justice agents have taken the concerns of battered women very seriously. MacLeod suggests that the most significant criminal justice initiative that has been

undertaken is that of mandatory charging and prosecution policy which emerged in the early 1980's.

On July 15, 1982, the federal Solicitor General wrote to the Executive of the Canadian Chiefs of Police requesting their support and cooperation in dealing with wife battering (MacLeod, 1987). Police were urged to lay charges when they had reasonable and probably grounds to believe that an assault had taken place. Following this announcement, the Royal Canadian Mounted Police, in consultation with provincial Attorneys General, developed a national charging policy in February 1983. Also, in most cases, directives were issued to Crown Attorneys encouraging rigorous investigation and prosecution of wife battering cases (MacLeod, 1987). It is noteworthy that since the Criminal Code was amended in 1983, the police do not have to actually witness the incident in order to press charges. Evidence of an assault is sufficient to bring forth a charge.

Defining wife battering as a crime has had a number of unintended consequences. Identifying wife battering as an assault under the law has allowed the state to define the problem in ways that link specific aspects of wife battery to particular institutions and agencies within the government, specifically with the criminal justice system. Further, although emphasizing wife battery as a crime has increased short-term protection for women, there has been few intervention programs designed to address women's long-term needs (MacLeod, 1994). For example, focussing on crisis intervention has served to limit the operational definition of wife battering to physical and/or sexual assault: wife battering was translated into terms which could be digested by the criminal justice system. As a

result, long-term support and structural change took a secondary role to women's short term needs for crisis intervention.

MacLeod (1994) argues that the emphasis on the crisis tended to perpetuate the image of the woman as a defenceless "victim" who required outside protection from the state. Similarly, the abuser was generally characterized in a one-dimensional way. These images rarely matched the experiences of women who were abused, therefore, women began to see criminal justice intervention as often inadequate and inappropriate (MacLeod, 1994). It is at this point, then, that we turn to the ongoing debate among feminist writers over the potential of the criminal justice system to respond to women's concerns.

Feminist Concerns and the Criminal Justice System

Within the last few years there has been a growing concern among feminist writers over whether engagement with the state has been an unqualified success for battered women. In particular, concern has been raised over the potential of the criminal justice to promote women's concerns. For instance MacLeod (1987) posits that while changes in the criminal justice system appear impressive, we do not yet know the effectiveness or consequences of many reforms.

Indeed most feminist writers acknowledge the efforts of women who struggled against wife battery and the improvement of institutional responses to wife battering. Several feminist writers, however, have declared the battered women's movement a failure (Barnsley, 1988; Currie, 1990; Hilton, 1989). Zoe Hilton (1989), for example, argues that governmental and professional intervention has led to the redefining of wife battering as an

individual problem. Once wife battering was accepted as a social problem by the government, Hilton and others (Currie, 1990; Walker, 1990) suggest that the Canadian government was able to shape and limit its response to the problem. Hilton also argues that as elected politicians used government to promote women's issues, strategies were tailored to work within the state. Consequently, women's groups without state funding found it increasingly difficult to press for political action and structural change (Currie, 1990). Moreover, Hilton posits that the government was reluctant to share the responsibility of responding to wife battering with feminist groups who insisted on a critical analysis of the structure of society. As such, reformists or liberal feminists were more successful in receiving government support since they sought to work within the purview of the current system.

Hilton (1989) argues that the political response by government, notably the federal Solicitor General, limited battered women's options by adopting a paternalistic approach to wife battering. Instead of allowing battered women to make their own decisions concerning their involvement in the criminal justice system, the government chose a response which allowed justice officials to act on the behalf of women. Mandatory charging and aggressive prosecution policies are clear examples of this approach. In addition, a number of feminist scholars suggest that vigorous arrest and prosecution policies give the idea that the state has dealt with the problem. As Currie (1992) contends, this gives the public the impression that "feminist demands have satisfactorily been addressed making it more difficult and less acceptable to criticize the state or to demand more action" (p.270).

Although the rhetoric of “one in ten”, which first appeared in the CACSW Report in 1980, suggests that woman abuse had been transformed into a public issue, various feminists argue that it has not (Hilton, 1989). Ursel (1986), for instance, argues that legal reforms which appear to favour women do not signify the demise of patriarchy, rather they represent the restructuring of patriarchy from its familial to social forms (Currie, 1990). Moreover, Ursel (1992) suggests that under social patriarchy “the state was pressured to assume many of the supportive and regulative functions previously confined to the family” (p.39). The state, rather than the individual male, increasingly controls the reproduction and labour of women (Snider, 1991). In the case of battered women this has meant that women continue to be controlled by the state through policies which marginalize women’s voices and dismiss their concerns.

Dawn Currie (1990), as a case in point, suggests that women’s issues have become institutionalized by the state. She contends that:

[W]ife battery has been well documented, public awareness and momentum on the part of women’s groups have placed wife battery on the political agenda, federal responsibilities have been identified and integrated into the policy agenda, and the social scientific community has responded with a concerted effort to identify the causes of domestic violence. And, yet, the campaign is now controversial, in that by challenging male power, it transformed women’s need for protection into campaigns for law and order (Currie, 1990, p.83).

Through its involvement with the state, the battered women’s movement has been transformed from a radical demand for the redistribution of social power into an expansion of current patriarchal institutions, particularly the criminal justice system. Currie does not, however, explain the institutionalization of feminist issues as simply government

cooptation of the issue. Instead, she posits that this has occurred through and not against feminist discourse.

In her analysis of the battered women's movement and the state, Currie argues that as women's issues become institutionalized into government agendas, demands for social change are ignored. She suggests, for example, that the Canadian government opted for programs which embody the values and structures of the dominant state. Moreover, she argues that there is an increased emphasis on the voices of "experts" such as social workers, sociologists, and "women's studies" which can potentially silence women's lived reality (Currie, 1990). The 'expertise' gained by women working in crisis centres is often ignored because the 'truths' of credentialized professionals appears more valid.

Also, Currie contends that the rise of experts has influenced official definitions of woman abuse as well as the discourse of criminal justice intervention. The social scientific discourse which accompanied professionalization of the issue has focussed on broader, more neutral sounding terms such as "family" or "domestic" violence (Currie, 1990). Further, various feminist researchers argue that the use of intra-family gender neutral language "obscures the actual history of the feminist 'discovery' of violence against women and discourages analysis of the problem from a context of societal male supremacy" (Breines & Gordon, 1983, p.508). Similarly, Barnsley (1988) asserts that once the issue was taken up by the state, feminists found themselves struggling against an approach to wife battering which analysed the phenomenon as one grounded in "individual pathology" or family dysfunction, a view which over looked the role of gender, of women's economic dependency, of institutions such as the family and of widespread

acceptance of violence as a means to maintain control (Leven, 1996).

Some feminists also maintain that because professional intervention strategies have frequently focussed on providing services to families to help them deal with violence between family members, the personal nature of the problem and the private nature of the family may be reinforced (Walker, 1986). Furthermore, Walker (1986) suggests that the term "family violence" glosses over the experience of women because it limits the understanding of the context of the violence and oppression faced by women in Western society.

While some writers have focussed on the engagement of the battered women's movement and the state, others have sought to examine the problems encountered by feminists who engage the criminal justice system to promote their concerns. Snider (1991), for instance, critiques strategies which rely on the criminal justice system to promote feminist concerns. She states that:

While the apparatus of government is too powerful to ignore, the criminal justice system is not a reliable ally. Entrusting more power to it means investing it with increased control over women's lives, control that is essentially invisible and unmonitored. It means giving over power which should be kept in feminist hands to a state bureaucracy with its own agenda- one which will not be consonant with feminist goals (p.239).

Reformists argue that the symbolic dimension of the justice system has the potential to change public attitudes by demonstrating that wife battering will not be tolerated.

Unfortunately though, as Snider suggests, old laws are typically replaced with measures that embody the same values of law and order. The use of the criminal justice system to deal with wife battering, for example, tends to reinforce and exacerbate existing class

biases. Furthermore, its emphasis on individual pathologies allows this agency to ignore the social and structural conditions which force women to remain in abusive relationships (Snider, 1991).

In addition, Snider argues that feminist groups face several impediments which others seeking changes in the criminal law and criminal justice reforms (who call for more law and order) do not. Because many feminist reforms are aimed at empowering women, the structures of patriarchy are challenged and the status quo which reflects males values is questioned. It is for this reason that feminists may find it difficult to enlist the criminal justice system as an ally. Moreover, even when feminists are successful in achieving law reform, they do not determine how the law will be enforced. Snider argues that normal patterns within the criminal justice system will reassert themselves once external pressure from feminists stops. These patterns will reflect the need of the criminal justice system “to maintain itself, to process cases efficiently (according to its own definition of the “going rate”), to focus upon “real” crimes, and to act in ways which are congruent with dominant structural forces in society” (p.256).

These critiques of the state, the criminal justice system in particular, have not gone unanswered. Jane Ursel (1991) argues that the relationship between feminism and the state has, in many ways, increased battered women’s options and support services. She finds it disturbing, however, that the ownership of the issue appears to be the primary considerations for a number of feminist writers who take an anti-state position. She argues that these scholars have not considered the possibility of change within the system nor the impact the women’s movement has had on the options and support services now

available to battered women. For instance, Ursel claims that the involvement of the state has resulted in more agencies becoming involved in this issue. This, she argues, resulted in increased services that meet the needs of many more women: these include immigrant women's programs, Native services, and shelters in small rural conservative communities. As a result of feminists' consciousness raising efforts, a community broader than the women's movement has recognized that wife abuse is a prevalent problem.

In sharp contrast to those feminist writers who see the state as inherently, monolithically and irretrievably patriarchal, Ursel (1991) argues that feminists must grasp opportunities and recognize allies within the state to effect change. Furthermore, she contends that history has indicated that it is possible to introduce progressive reforms and to use the power of the state to do so. In her view, contradictions within the state create the possibility of convergence between the state and women's interests (Leven, 1996). While she acknowledges that these interests will never be the same, they share a common interest in "dismantling law, practices and conventions of an old patriarchal order which have always been costly to women and, over time, became costly to the state" (Ursel, 1991, p.267). Wife battering has become costly to the state in terms of the social costs associated with sustained victimization of large segments of the population and in terms of the political costs, notably to the legitimacy of the state. To summarize, Ursel calls for the state to be used strategically.

In summary, then, feminists have struggled since the 1970's to raise public awareness about male violence against women in intimate relationships in Canada. By engaging with the state and the criminal justice system, wife abuse was recognized as a

crime and abusers were charged and prosecuted for their crimes. However, there is growing disagreement over whether or not a criminal justice approach to wife battering can bring about adequate reforms. Many feminists writers warn of the consequences of engaging the criminal justice system to fight against gender oppression and male violence against women.

Although most Canadian provinces appear to have responded to feminist demands, few studies have sought to address the extent to which feminist discourses have been incorporated into provincial criminal justice policies on wife battering. Thus as noted earlier, given the gap in the literature that exists in this areas, this study will explore the extent to which feminist discourses on wife battering have been incorporated in the criminal justice policy in Canada.

CHAPTER THREE

THEORETICAL FRAMEWORK

A number of scholars have sought to explain, through research and theory, the way in which law as a discourse makes a claim to 'truth' and in turn disqualifies women's experiences (Dahl, 1987; Smart, 1989). For the purposes of this study, Smart's (1989) work, Feminism and the Power of Law, was chosen to guide the analysis of the extent to which feminist discourses have been incorporated into criminal justice policies on wife battering in Canada.

Carol Smart: Feminism and the Power of Law

Carol Smart's (1989) work explores the way in which law exercises power, and the extent to which it resists and disqualifies alternative constructions of social reality. The main purpose of her book has been to argue that feminism should resist the move towards more law. She contends that feminists should be wary of a 'resort to law' approach to resolve women's oppression, as law also carries the potential to work against women rather than for them.

Throughout her analysis, Smart argues that law is empowered by its appearance of unity and singularity. In fact, the monolithic image which it projects allows it to operate as a claim to power because it appears to embody a claim to "a superior and unified field of knowledge which concedes little to other competing discourses which by comparison fail to promote such a unified appearance" (p.4). Moreover, law has the ability to define and impose its definition of events on everyday life. For instance, legal definitions of wife

battering take precedence over women's definitions, experiences and concerns of violence in intimate relationships. This unified appearance empowers the law to define the 'truth' of things even when presented with competing discourses such as feminism. In order to create a substantial oppositional force, feminism must tackle law at its conceptual level.

Smart's analysis of law finds its roots in the work of Michel Foucault (1979). The concepts of power, truth and knowledge form an integral part of her thesis. Smart's analysis of law and legal discourse does, however, differ from Foucault. While she acknowledges that non-judicial modes of regulation have increased in their influence, she suggests that juridical power remains a significant obstacle for feminism. Law increases its power, Smart argues, because it is able to deploy disciplinary mechanisms rooted in the human sciences to enhance its own power. In addition, Smart explores the way in which legal method is able to disqualify other knowledges which may be rooted in feminism (Smart, 1989). In order to explicate Smart's argument in its entirety, these concepts will be examined in relation to a feminist analysis of law.

Power, Truth and Knowledge

In his construction of the disciplinary society, Foucault develops a non-economic analysis which details the power-knowledge relationship embedded in the wider strategies of power (Garland, 1990). Unlike traditional Marxist theorists who describe power as a commodity that some people or a class may own, Foucault argues that power is part of the internal processes that operate to control individuals. To advance his thesis, he draws a picture of a new power coming to be.

Where the old power depended on the idea of public space and of a public authority that essentially manifested itself in this space, which overawed us with its majesty and relegated the subjects to a less visible status, the new power operates by universal surveillance (Foucault, cited in Taylor, 1984, p.330).

Briefly stated, his argument is that society has become transformed to the extent that citizens are no longer governed in terms of law but rather through the modern technologies of control. The development of the disciplinary society was made possible through the rise of the human sciences such as medicine, psychiatry and criminology. As the human sciences developed, knowledge classification systems which were able to document a whole array of human activities were formulated. This knowledge, as Smart (1989) suggests, created new fields of exploration and brought with it new modes of regulation and surveillance of the population. Furthermore, this process of social identification led to the fabrication and the identification of conditions which gave rise to the delinquent. More importantly, the criminal became a social type in the process of normalization which both reproduced criminality and produced normal individuals. Hence, the criminal is pathologized and placed under a microscopic lens so that his or her behaviour can be closely monitored and regulated (Smart, 1989).

Foucault's interest in the growth of the disciplinary society reflects his concern with the modern technologies of control. He is not so much concerned with law or with who has power, but rather with the mechanisms of power which operate through the process of normalization (Taylor, 1984). Foucault argues that the disciplinary mechanisms act as a new mode of regulation and surveillance which serves to ensure control over and

the complicity of individuals. As Taylor (1984) has argued:

It is essential to the old model that power presupposes a location of source of command...In any case order starts somewhere. But the new kind of power is not wielded by specific people against others, at least not in this way. It is a complex form of organization in which we are involved” (p.331).

In addition, Foucault, unlike many other theorists, rejects the traditional formation of power as negative and repressive. He insists that power carries the potential to be creative and productive. As such, power can be used to create resistances and local struggles which act in opposition to dominant forces. Although he opens a new door of inquiry which reconceptualizes power in modern society, it is very hard to abandon traditional contrivances of power, namely law. As Taylor (1984) suggests, we still live in the theory of the old power. The discourse of rights is still deeply embedded in Western thought and integral to power systems.

Whereas Foucault intimates that the old contrivances of power are diminishing, Smart asserts that we need to think in terms of two parallel mechanisms of power, the discourse of rights and the discourse of normalization. She suggests that while law’s traditional power to regulate and control may appear to be diminishing, it is extending its realm of influence through a symbiotic relationship with the new mechanisms of control and regulation, notably the human sciences.

Truth/knowledge

Foucault’s interest in the concept of ‘truth’ lies in discovering how certain discourses claim to speak the ‘truth’ and thus can exercise power in a society that values

that notion of 'truth' (Smart, 1989). Accordingly, he argues that in making a claim to science, a claim to truth is made. Other sources of knowledge such as intuition and experience, for example, are accorded less value than scientific discourses and in turn are often disqualified. Law's claim to truth, however, does not fit into Foucault's discussions of science, knowledge and truth. Instead, he describes law as a power that predates the development of the mechanisms of the disciplines and in turn argues that the linkage of power and juridical rights will become obsolete as the disciplinary society develops.

In sharp contrast, Smart argues that law, like scientific discourses, makes a claim to truth. She states that,

Law has become its own method, its own testing ground, its own specialized language and system of results. It may be a field of knowledge that has a lower status than those regarded as real 'sciences', none the less it sets itself apart from other discourses in the same way that science does (p.9).

Law sets itself above other knowledges and claims to have a method to establish the truth. Moreover, because of its appearance of neutrality, law has the ability to extend itself beyond traditional legal jurisdiction to make claims about non-legal issues. Judgements about a woman's sexual morality in rape cases are often enforced under the guise of legal standards (Smart, 1989). Consequently, law is able to disqualify those who disagree with it by claiming that it has the wisdom to uncover an absolute 'truth'.

If we accept that law, like science, makes a claim to truth then we can also see that law disqualifies non-legal knowledges and experiences. People's everyday experiences are of secondary value. To be of use, these experiences must be translated into legal relevances before they can be processed through the system. During this process,

however, details that are important to the parties involved are often excluded; the law makes judgements based on a scripted account of 'relevant' details. In addition, while it is true that parties are not always completely silenced throughout this process, their experiences are transformed into something law can digest.

The Problem of Legal Method

Only recently have researchers begun to question whether law is gendered. Feminists have begun to examine the very tools used by law and the means through which law is able to marginalize women's knowledge and experiences. A number of feminists have theorized on the relationship between feminism and the law. Mossman (1986), for instance, has argued that law is impervious to the feminist challenge and that law continues to extend its terrain into questions of morality. Smart, however, contends that it is important to recognize that in practice, the expansion of legal terrain is not always supported by everyone. This, she suggests, may mark the beginning of the resistance to the power of law.

Following the work of Stang Dahl (1987), Smart suggests that legal reasoning which applies abstract norms to the facts of an individual case is relevant when a judge is being addressed. However, such law has little relevance for the lives of women. In fact the 'law' that affects women's lives is more likely to be administrative and welfare-oriented. It is at this point, Smart argues, that a door opens, allowing feminism to challenge law. She contends that feminism has the power to challenge law and can do so by exposing how law operates in all its most detailed mechanisms. Moreover, she insists that "in doing

this it can increase the resistance to law and may effect a shift in power” which will allow feminism to re-assert definitions that embrace women’s experiences (p.25).

In her concluding remarks, Smart warns that feminism should avoid the siren call of law. To understand this point, it is important to summarize the four main themes which emerge in Feminism and the Power of Law. First, Smart describes the ‘androcentric’ standard of law. She argues that this standard embodies the masculine requirement of law and the positivistic legal tradition. As such, this tradition bears little relationship to the concerns and experiences of women’s lives. While this is not a new proposition, Smart posits that it is still a very important one since legal reform has often been a goal of the women’s movement. By accepting law and the criminal justice system as an ally, feminists are accepting the significance of law in regulating the social order. Smart argues that it is in this process that law gains strength as a possible solution to women’s oppression. Consequently, while some law reforms may benefit some women, “it is certain that all law reforms empower law” (p.161).

In a similar vein, Canadian feminist writer Laureen Snider argues that the criminal justice system is not a reliable ally for feminism. Snider (1991) insists that when external pressure to promote feminists concerns stops, and shifts to other issues, the normal patterns within the criminal justice system will re-assert themselves. Moreover, she argues that these patterns reflect the needs of the criminal justice system to maintain itself and to process cases efficiently. As such, the legal system will continue to resist feminism and support the status quo of economic, social and familial relations.

So, as various authors suggest, resorting to law and to criminal justice is

problematic at best. For instance, the law as a field of knowledge retains its power even though laws or legal practise are criticized. Smart posits that while some law reforms are indeed necessary, it is imperative that the costs and benefits are acknowledged and evaluated.

The second theme that runs throughout her analysis is the juridogenic nature of law. This feature of the law allows it to appear as though it has the ability to right wrongs, and in turn to empower the disadvantaged. Smart, however, is aware that in exercising law, existing conditions may be worsened. She suggests that in these cases it the legal cure is often as bad as the original abuse. For example, while women are encouraged to press charges when they have been raped or sexually abused, their accounts on sexual matters are often disqualified by legal discourse and a legal tradition characterized by phallocentrism.

Like Smart (1989), Snider (1991) and Currie (1991) argue that feminists should not strengthen the present system of oppression (namely the criminal justice system) by calling for more of the same. Instead, feminism must use the law against itself, to challenge it and to seek changes which redefine the system of social relations which keep women in a position subordinate to men. Furthermore, these feminist scholars warn that reforming the criminal justice system will not create equality between men and women. They suggest that those feminists who call for reforms to the criminal justice system to end women's oppression, risk aligning themselves with conservative views that call for more law and order and that protect traditional values (Parent & Digneffe, 1996). Feminism, then, must challenge the legal discourse and acknowledge that law cannot

provide “the solution to the oppression that it celebrates and sustains” (Smart, 1989, p.49).

The third theme of central importance to Smart’s analysis is law’s power as a discourse. Law’s claim to truth allows it to refute and disqualify alternative discourses and to impose its own definition of events. Currie (1990), for instance, argues that feminist demands for radical change are often replaced by the extension of the current system. She asserts that demands for the redistribution of social power, which underscored early feminist demands, have been translated into demands for the expansion of current patriarchal institutions rather than community-based and more radical responses. Specifically, her analysis centres on the transformation of public discourses about wife battery from feminist critiques of masculine privilege to institutional responses framed within criminal justice discourse (Currie, 1990). Like Smart, Currie contends that law is more than a system of rules; it is a system of knowledge and in turn is able to create and sustain its power through rules.

As noted earlier, Smart does not limit herself to a Foucauldian analysis which suggest that law’s power will dissipate. She insists that the place of law as a mode of regulation will not diminish as disciplinary mechanisms develop. Hence, law’s traditional power may be enhanced by coupling disciplinary modes with the traditional legal methods or by extending law into new terrains as new technologies develop. As such, Smart contends that as law’s power is extending, “it seems to call for greater attention from feminism, not less” (p.163).

The last theme Smart presents is the need to de-centre law. Traditionally,

feminism has engaged with law in one of two ways. First, feminists have sought to resist law reforms which are potentially detrimental to women. While this has been important in preventing further harm to women, it does not challenge the status quo of political, economic and familial relations. Second, feminists have employed law to promote women's concerns. However, Smart argues that engaging with law to promote women's interests extends law's power. Furthermore, these strategies have often been reactive and do not represent a unified feminist analysis of the law (Smart, 1989).

In order to develop a clearer vision of the law, Smart calls for feminism to consider in detail how law operates in various fields. By analysing law in its specificity, it will become clear that law has been refracted as technology. In other words, law does not have one single appearance. For instance, the law has a number of applications such as statute law, judge-made law and the enforcement of the law. Moreover, statute law is not unified in its goals. Often, there are contradictions in terms of legislation that has diverging goals. It is also refracted in terms of applications according to who attempts to use it and, of effects depending on who is the subject of the law. For example, law does not have a unified position in relation to women and women's bodies. On the one hand legislation exists which legalizes abortion, yet at the same time a child can sue his or her mother for damage caused in utero. Law does not stand in one place nor does it have one consequence. It follows, then, that "we cannot develop one strategy or one policy in relation to it" (Smart, 1989, p.164).

If feminism cannot predict the application of law, it follows that we cannot predict the consequence of law reform. For instance when a phenomenon is identified as an

important social problem, the state often takes ownership of the issue in order to respond effectively. Once this process is set in motion, legislation is usually enacted which is far removed from the values and politics of the women's movement (see Currie, 1990). As such, Smart argues that feminism should engage law, not for the purposes of law reform, but rather to develop a more lucid insight into the potential of law to regulate women's lives and to dismiss their concerns.

It is important to note that Parent and Digneffe (1996) suggest that although few feminists fall into the trap of considering law the only and ultimate solution to wife battering, changes in the law are often considered as a necessary part of the problem's solution. While it is difficult to conceive how one would respond to a violent situation other than turning to the police and invoking some legal intervention, it often leaves no room to question the values and limits of the criminal justice system. Also, these authors suggest that few feminist writers at the end of the 1970's showed much familiarity with the criminal justice system and, therefore, they had little knowledge of its limits or social costs. Consequently, few feminists anticipated the consequences and limits of zero-tolerance policies with respect to wife battering. The aim of more aggressive charging and prosecution policies was to ensure women's protection through effective application of the law and to raise awareness that wife assault was a crime no less serious than assault by a stranger (Parent & Digneffe, 1996).

In the end, it is law's power to define the truth and to disqualify other discourses which should become a focus of feminist strategy. Smart argues that feminism must use its power to re-define the truth of event and to re-assert its own definition to make visible

women's experiences. Moreover, she notes that the legal forum is an excellent place to engage in the redefinition of events. She states:

At the point at which law asserts its definition, feminism can assert its alternative. Law cannot be ignored precisely because of its power to define, but feminism's strategy should be focussed on this power rather than on constructing legal policies which only legitimate the legal forum and the form of law (p.165).

It is noteworthy, however, that Smart stresses the importance of non-legal strategies and local struggles at the same time as she calls for feminism to challenge the power of law. In summary, she insists that feminism must use its power to re-define the wrongs against women which have often been dismissed and marginalized by legal discourse.

In this study, it will be argued that there is a resistance to feminist discourses on wife battering in the criminal justice system. Drawing on Smart's analysis of the law and legal discourse, it will be theorized in the discussion chapter that the law continues to empower itself and to disqualify other knowledges even when presented with an oppositional force such as feminism.

CHAPTER FOUR

METHODOLOGY

Introduction to Content Analysis

The research method that was utilized in this study is that of content analysis.

Content analysis is a set of methods for analysing the symbolic content of any form of social communication (Singleton, Straits & Straits, 1993). This method of investigation goes back nearly a century (Neuman, 1997) and is frequently used in the field of mass communication, as well as other social science disciplines (Silverman, 1993). Content analysis may be applied to many other forms of communication such as written documents, transcriptions, books, magazines, newspapers or speeches (e.g., Babbie, 1995; Berg, 1995). The objective of using content analysis as a research technique is to reduce the total content of a communication to relevant, manageable categories in order to discern patterns and meanings and, in some contexts, to test hypotheses (Champion, 1993; Singleton, Straits & Straits, 1993).

There are several steps involved in conducting content analysis research. As in most research, research questions must first be clearly established. In the case of content analysis, questions are applied to the communication being studied. Then, content categories must be identified and defined (Singleton, Straits & Straits, 1993). Once the units of analysis (i.e., the elements of the text that are described by the content category) are established, a coding system must be developed. Coding systems or systems of enumeration identify characteristics of text content such as the frequency of a category, the appearance of a given category, the intensity or valence of a message (whether it is

negative or positive) and the space or time allotted to a category (Neuman, 1997; Singleton, Straits & Straits., 1993). The most common method of measuring content is in terms of the frequency with which a given category occurs. Finally, the researcher must relate the content categories or characteristics of the content to one another. Also, one could relate the characteristics of the content to some other variable (Singleton, Straits & Straits, 1993).

Content analysis may focus on either quantitative or qualitative aspects of communication messages (Berg, 1995). In addition, there are two main types of content analysis: manifest and latent. Manifest or “quantitative” content analysis involves measuring the frequency with which a given category or element (e.g., symbol, word or theme) appears in the text or communication (Berg, 1995; Singleton, Straits & Straits, 1993). Manifest content represents the visible surface content that is physically present and countable. On the other hand, “latent” or “qualitative” content analysis seeks to *interpret* the symbolic content of the communication (Berg, 1995). Latent content analysis is, therefore, a method for “tapping the underlying meaning of communications” (Babbie, 1995, p.312). Ideally, to ensure the reliability and the validity of the study, both manifest and latent content analysis should be employed. Babbie (1995) suggests that when a given category receives the same characterization from both methods, the coding of manifest and latent content is reliable and valid.

There are a number of advantages to using content analysis. As Babbie (1995) and others such as Berg (1995), Champion (1993), suggest, content analysis can be relatively economical in terms of both researcher time and money. Often the material necessary for

conducting content analysis is easily and inexpensively accessible and there is no requirement for a large research staff (Babbie, 1995; Berg, 1995). This data collection method also allows the researchers to study processes that occur over a long period of time, and content analysis is particularly well-suited to historical and longitudinal studies (Babbie, 1995). Finally, because content analysis is relatively unobtrusive, it may be used nonreactively, that is, it will seldom have any impact on the subject being studied (Berg, 1995). This means that the focus of the research is unaffected by the measurement process.

Like any data collection method, however, there are also a number of disadvantages associated with content analysis. One drawback of using this method of data collection is that it is limited to examining existing messages (Babbie, 1995). In addition, while some researchers have indicated that content analysis may be economical in terms of time, this will depend on the scope of the research as well as the length and the complexity of texts. Also, while some material necessary for content analysis will be easily accessible, Singleton, Straits & Straits (1993) suggest that written materials from the more remote past “are subject to selective survival”, and accordingly may be more difficult to locate (p.387). There may also be an external validity problem in that the surviving materials are not representative of the original universe of communication from which they were drawn. Finally, content analysis may be an ineffective tool for testing relationships between variables.

Although content analysis is not suitable for every research situation, it is, on balance, a useful method of data collection. As Neuman (1997) suggests, content analysis

may serve as a valuable tool in revealing “messages in a text that are difficult to see with causal observation” because “the creator of the text or those who read it may not be aware of all its themes, biases or characteristics”(p.274). Given that it is an effective method for discerning trends in existing phenomena (Hagan, 1989), it is an appropriate method for studying trends in the incorporation of feminist discourses on woman abuse in criminal justice policies over the last twenty years.

Research Questions

1. To what extent have feminist analyses (e.g., radical feminist, socialist feminist, Liberal and Aboriginal women’s perspective) of wife battering been incorporated into criminal justice policy at the provincial and territorial level?
2. To what extent has feminism had an impact upon the legal discourse on wife battering in criminal justice policies at the provincial and territorial level?

Sample of Policies Studied

This study employed content analysis to examine the extent to which feminism has affected the legal discourse on wife battering in provincial or territorial criminal justice policies which were published from the mid 1980's to the late 1990's. The sample consisted of thirteen policies with an average length of approximately twenty-five (25) pages. The length of the texts, however, ranged from three (3) to one-hundred-and-nine (109) pages. It is noteworthy that the policies in the sample varied in length and specificity, therefore, in some cases more than one policy per province or territory was utilized. For example, some policies on woman abuse included protocols for various

criminal justice professionals, while others provided a more general directive which required the inclusion of more specific documents. For this reason, two policies were included from Nova Scotia and the North West Territories while four policies were included from Ontario.

The study employed a purposive sample. This type of sample can be used for studies with a more limited scope or in a situation that precludes random selection (Singleton, Straits & Straits, 1993). Purposive sampling requires the researcher exercise their judgement in selecting sample materials (Babbie, 1995). For the purposes of this study, twelve policy centres across Canada were contacted in order to obtain policy guidelines developed in the area of woman abuse and criminal justice. Although no provinces or territories refused to send policies, two did not respond to requests for information. In the end, policies from seven provinces and one territory were selected for this sample (see Appendix A for a list of the sample documents).

Data Collection

Manifest Content Analysis

Manifest content analysis was employed to measure the total page coverage devoted to feminist and non-feminist analyses of wife battering in justice policies. The data from this analysis provided an indication of the average pages devoted to feminist and non-feminist analyses of wife battering.

Various authors suggest that it is preferable to analyse the entire text because this “preserves its semantic coherence” (Singleton, Straits & Straits, 1993, p.384). Therefore,

each criminal justice policy was examined in its entirety in order to accurately identify the amount of space that was devoted to the discourses that were selected for examination.

As part of the quantitative content analysis, coding sheets were utilized to measure the number of pages devoted to discourses which reflect feminist and non-feminist analyses of wife battering. A distinction between the context units (unit of analysis) and the recording units (i.e., number of pages) was noted on the recording sheet. In this study the units of analysis were the criminal justice policies on wife battering while the units of observation were the feminist and non-feminist analyses of woman abuse. A pretest was conducted to ensure that the coding sheets accurately reflected the analytic concerns of the study (Singleton, Straits & Straits, 1993) (see Appendix B).

i. Feminist Analyses

As indicated in Chapter Two, there is no single unified feminist perspective. However, feminist analyses of wife battering do share a number of common elements. First, feminist analyses of wife battering begin by validating women's experiences of abuse. Accordingly, feminists build knowledge from women's experiences of subordination through violence and coercion in intimate relationships. Moreover, feminist perspectives attempt to locate the abuse of women in its historical and political context. For example, feminists often identify the historical-legal precedent of male supremacy with the subordination of women in marriage and society (Walker, 1990).

Feminist analyses of wife battering focus on the larger question of male violence against women and tend to see such violence "as a reflection of unequal and oppressive power relations between the sexes, and this as not just as a matter of tradition or cultural

values but as integral to the unequal social structure” (Walker, 1990, p.85). Wife battering, then, is seen as a complex problem rooted in oppressive power relations between men and women.

For the purposes of this study, feminist analyses of wife battering focussed on the roots, dynamics and consequences of wife battering as well as on feminist critiques of the criminal justice system. Moreover, protocols which appeared to be influenced by feminist perspectives were coded as part of the total page coverage of feminist analyses of wife battering. Therefore, discussions framed in gender-neutral terms but which may empower women were considered to be influenced by feminist thought.

ii. Non-Feminist Analyses

(a) Psychological Analyses

In contrast, there are a number of perspectives which lack a feminist analysis. Psychological approaches to wife battering seek to understand wife battering as grounded in the characteristics of individual men and women (Bograd, 1988). A psychodynamic framework, for instance, is one that reduces violence against women in intimate relationships to a symptom of mental illness or psychopathology (Walker, 1990), and sees the problem as residing in male pathology and describes men who batter their partners as lacking impulse control. They have also described battered women as paranoid or masochistic (Bograd, 1988; Walker, 1990). The problem, then, is explained as one which is exclusive to dysfunctional individuals, and which results in ‘sick’ relationships that need to be cured (Walker, 1990).

The social learning model has also had a significant impact on psychological

analyses of wife battering. These theorists study how violence in families of origin affects a person's propensity towards violent behaviour or how women in violent relationships learn to be helpless when faced with an abusive partner (Bograd, 1988). Proponents of this model focus on personality characteristics which, they claim, make men susceptible to violent behaviour or which may place women at a higher risk for becoming victims of abuse.

Feminists have offered a number of criticisms of these psychological approaches to wife battering. First, some feminists have argued that the focus on psychopathology implies that wife battering is the result of abnormal behaviour rather than a social environment that condones male violence against women. However, the pervasiveness of the problem indicates otherwise. Second, psychological explanations may not be applied in the same way to both men and women. For example, behaviour which is identified as appropriate to one gender and not the other, may skew results and may not account for the meaning of the behaviour to the individuals involved. Finally, these analyses tend to ignore the question of power. This approach does not explain why some men beat their wives in private but not their male counterparts (Bograd, 1988). It is noteworthy that while feminists do not deny that some instances of wife battering may be linked to psychopathology, they seek to place psychological analyses within the context of a patriarchal social system characterized by an unequal distribution of power and social relations which keep women in a position subordinate to men (Bograd, 1988).

(b) Sociological Analyses

Sociological perspectives have also influenced both academic writing and policy formation with respect to wife battering. For mainstream sociologists, violence is identified as part of a larger system of cultural norms and societal values which condones violence. Furthermore, mainstream sociologists often assume that certain structural arrangements produce stress and conflict within families and that certain families respond to this stress with violence. Accordingly, these researchers link family violence to social norms that condone violence.

The work of Straus, Gelles and Steinmetz (1980) has been influential in this area. These sociologists have published a substantial body of social science research on domestic violence. Kurz (1992) asserts that the nature of their findings, which suggest that all family members carry out and are victims of violence, is flawed by virtue of their theoretical approach and data analysis. Straus et al. (1980) argue that family violence originates in wider social norms which condone violence in the family. These researchers assert that women are just as likely to be as violent as men in relationships. As such, their research emphasizes a notion of “mutual combat” which does not take into account the differences in meaning of the violence between men and women, nor the socio-historical contest of male violence against women .

Latent Content Analysis

Latent content analysis was employed to discern trends and themes in the treatment of wife battering in criminal justice policies. As noted earlier, latent content

analysis looks for the underlying or implicit meaning in the content of the text (Neuman, 1997). Like manifest content analysis, the researcher began by identifying the recording unit (e.g. theme, message) and the context unit (unit of analysis) of the study. For the purposes of this study, the units of analysis were criminal justice policies on wife battering while the recording units were discourses which serve to empower the law, and discourses which serve to empower women (see Appendix C).

Analyses, solutions and protocols with respect to wife battering were examined to discern the extent to which feminism has had an impact on the legal discourse with respect to wife battering. A page (or part of a page) was recorded and coded as an indication of discourse which empowers law when it could be classified into any of the following categories:

- Discussions that disqualify women's experiences or disempower women
- Discussion of the potential of law to resolve social problems
- Solutions that call for more law and order or a stricter application of the punitive measures characteristic of the criminal justice system
- Discussions that suggest the importance of meeting the needs of the criminal justice system

Similarly, a page (or part of a page) was recorded and coded as an indication of discourse which empowers feminism when it could be classified into any of the following categories:

- Discussions that validate women's experiences or empower women
- Discussion of the limitations of law to resolve social problems

- Solutions that call for social structural change including economic, political and social transformation to end the subordination of women to men.
- Discussions which suggest that meeting women's needs and concerns are of utmost importance.

Examining the extent to which feminism has had an impact on legal discourse provides useful information with which to test the hypothesis advanced by feminist researchers (such as Carol Smart (1989)) who argue that legal discourse tends to resist knowledges such as feminism.

Reliability and Validity of the Study

As is the case with other research methods, the reliability and the validity of the instrument used in content analysis must be evaluated. It is noteworthy, however, that the content analyst has more flexibility with respect to depth and specificity since the combination of both manifest and latent content coding may increase the reliability and validity of the study. For example, coding the manifest content is highly reliable, however, it may not capture the underlying meaning. Coding the latent content, on the other hand, complements the manifest content because it taps into the deep structural meaning of messages, thereby adding validity to the study. In order to assess the reliability and validity of the study an intercoder reliability check and a face validity check were conducted.

An intercoder reliability check of the coding sheets determines the extent to which other coders using the same coding instrument would obtain similar results (Singleton, Straits & Straits, 1993). One individual with background in this research area was

employed to re-code a sample of the criminal justice policies. The results obtained appeared consistent with the results of the researcher over ninety per cent of the time. In most cases, inconsistencies in coding appeared to be the result of the researcher's attempt to err on the side of feminism. As such, the coverage devoted to feminist analyses may be slightly high in this study. In addition, a face validity check of the coding sheets was conducted to ensure that the indicators provide some measure of the variables (see Babbie, 1995). A face validity check is done when an informed judge believes the measuring instrument appears at 'face value' to reasonably attempt to measure the point in question (Hagan, 1989). The face validity check was conducted by an individual from the University of Ottawa who has both studied and researched issues related to male violence against women, and who has previously conducted research using content analysis. She identified all categories as appropriately constructed.

CHAPTER FIVE

FINDINGS

The purpose of the data analysis in this research is to explore patterns in provincial and territorial justice policies on wife battering. These patterns offer a description of feminism's potential to impact criminal justice discourse.

The data analysis chapter has been divided into three sections. First, manifest content analysis will be utilized to discuss patterns in the incorporation of feminist and non-feminist analyses of wife battering in justice policies. In this section, the author will describe the types of analyses that were employed in provincial and territorial policies with respect to wife battering. Second, latent content analysis will be utilized to discuss the underlying themes and patterns which emerged from the data. For organizational purposes, themes have been broken down into two categories. The first category encompasses discourses which empower law. The four main themes that empower law are as follows: (1) the disqualification of women's experiences and the disempowerment of women, (2) the potential of law to resolve social problems, (3) law and order approaches to wife battering, and (4) a focus on the needs of the justice system.

The second category consists of discourse which empowers women by recognizing their experiences. The four main themes which empower women include: (1) the validation of women's experiences, (2) the limits of law to resolve social problems, (3) the need for social structural change, and (4) a focus on the needs of women who have been abused.

All provinces and territories who sent information were willing to provide

additional assistance when it was required by the researcher. There were only two provinces that did not respond to requests for information: Newfoundland and Saskatchewan. In addition, it should be noted that Prince Edward Island and the Yukon were excluded from the sample. Prince Edward Island has adopted a policy modelled after New Brunswick's Woman Abuse Protocols, therefore, the information would have been repetitive. The Yukon, on the other hand, has adopted a mandatory charge and prosecution policy. However, these protocols were not published in the form of a government document. The sample in the study, therefore, was comprised of policies from seven provinces and one territory.

MANIFEST CONTENT ANALYSIS

Manifest content analysis is the apparent surface content of the communication (Babbie, 1995). In an attempt to describe the visible surface content of the policies, a table which indicates the level of coverage of feminist and non-feminist analyses of wife battering has been presented. In addition, statements which represent feminist perspectives, psychological perspectives and mainstream sociological perspectives that were found in the policies have been described.

Table 1
 Level of Page Coverage of Feminist and Non-Feminist Analyses of
 Wife Battering in Provincial and Territorial Policies

Number of Pages Covered in Policies	Page Coverage of Feminist Analyses	Page Coverage of Non-Feminist Analyses	Total Page Coverage of Analyses
AB, 1997, pages covered = 10	2.02	0.063	2.08
BC, 1996, pgs. cov.= 26	7.10	0	7.10
MB, 1995, pgs. cov.= 51	9.39	0.25	9.64
NB, 1991, pgs. cov.= 109	38.80	1.00	39.80
NS a, 1995, pgs. cov.= 9	1.47	0.25	1.72
NS b, 1996, pgs. cov.= 16	0.75	0.39	1.14
NS c, 1996, pgs. cov.= 3	0.88	0.063	0.94
NS d, 1996, pgs. cov.=3	0.44	0.063	0.50
NT a, 1993, pgs. cov.= 26	11.53	1.23	12.76
NT b, 1994, pgs. cov.= 17	7.17	0.13	7.30
ON a, 1994, pgs. cov.= 13	1.16	0.31	1.47
ON b, 1995, pgs. cov.= 4	1.88	0	1.88
PQ, 1986, pgs. cov.=36	6.46	0.47	6.93

Total pages = 323	89.05	4.21	93.27
Average Pages	Mean Coverage	Mean Coverage	Mean Coverage
24.85	6.85	0.32	7.17

Feminist Analyses of Wife Battering

In general, when analyses of wife battering were presented in justice policies, feminist perspectives appeared more often than non-feminist analyses. In fact, the findings presented in Table 1 indicate that the mean page coverage of feminist discourses in justice policies is approximately 6.85 pages per 24.85 page document. When compared to the total page coverage of analyses, feminist discourses represented approximately 95.5 per cent of the analyses. Feminist analyses of wife battering were commonly found at the beginning of the policies so as to introduce the problem, however, they also appeared throughout the entire text.

The depth of these analyses and the varieties of feminist thought presented differed substantially from one policy to another. For instance, British Columbia, the North West Territories and New Brunswick provided the most complete coverage of feminist positions on wife battering. Each of these policies recognized the gendered nature of abuse, the continuum of violence faced by women in abusive relationships, and power imbalances between men and women. Furthermore, these policies acknowledged that women who are in an abusive relationship, who are struggling to leave one or who have left an abusive partner have needs and concerns specific to their situation that must be met. The following statement is representative of feminist analyses of wife battering found in the above noted policies.

Violence in the family context is based on power and control. The reality of family violence is that the overwhelming proportion is perpetrated by men and the vast majority of victims are women and children. While outside the home, men may be the victims of violence, violence directed towards women and children is most often delivered by loved ones in the privacy of their home. These facts give a different dimension to family violence than to other forms of violence, such as violence between two men involved in fisticuffs outside a bar. The expression "family violence" must not be used to disguise the fact that almost all the violence is directed at the less powerful members of society (NWT, 1993, p.7).

In addition, the discourse used to define wife battering ranged from feminist to gender neutral discourse. Policies published in British Columbia, New Brunswick and the North West Territories offered more comprehensive feminist definitions of abuse than the others. For instance, the British Columbia policy states that:

For the purposes of this policy, violence against women in relationships is defined as physical or sexual assault, or the threat of physical or sexual assault of women by men with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behaviour, such as intimidation, mental or emotional abuse, sexual abuse, neglect, deprivation and financial exploitation, must be recognized as part of the continuum of violence against young and elderly women alike (BC, 1996, p.4).

It should be noted that the policies issued in British Columbia and New Brunswick were the only ones that recognized violence against women in teenage dating relationships. In fact, only the New Brunswick policy examined this issue in some detail. Although differences in teenage dating relationships dynamics were noted, similar analyses to that of wife battering were offered. For instance, it was suggested that:

As with adult relationships, teen dating violence and abuse has as its base a societal model and attitude of male dominance and female submission (p.102).

Some provinces, therefore, did recognize the pervasiveness of the problem across various

age groups.

In comparison to the above mentioned policies, those published in Québec, Manitoba, Alberta and Ontario, presented less coverage of feminist analyses of wife battering although feminist discourses did appear. In general, these policies indicated that violence in families is most often perpetrated against women by men. However, these provinces offered little description of the roots and causes of wife battering.

In sharp contrast, the policies published in Nova Scotia were written in gender neutral terms. There was little indication of the power imbalance between men and women. Moreover, there was no evidence to suggest that women are more often and seriously abused by men. In fact, gender neutral pronouns were utilized throughout the texts. There were, however, some statements which seemed to empower women because they recognized various forms of abuse identified by battered women. This coverage was recorded as a feminist discourse since the intent of policy writers was not known.

Varieties of Feminist Thought

As previously mentioned, a number of feminist perspectives on wife battering were presented in some of the policies, although liberal feminists positions appeared to be the most frequently used in the sample of policies. For instance, various statements in the texts indicated that "violence against women is depriving many women of their ability to achieve equality" (NB, 1991, p.63). Also, it was suggested that reforms to the justice system would send a message to society that violence against women will not be tolerated.

Provincial and territorial policies addressed a number of liberal feminist demands.

In accordance with a liberal feminist analysis of wife battering, most policies indicated that wife battering should be recognized as a crime. For instance, government officials in Alberta designed a media campaign which emphasized the criminal nature of wife battering and assured that police would respond by laying charges.

The campaign gave the message "If You Have Been Assaulted, Call the Police for Help. Family Violence is a Crime" and featured the drawing of a battered woman and her child. The campaign created an awareness of this serious crime and in order to build on that awareness, a second, stronger message was developed for the second campaign. The message, "Stop Family Violence Now! Police Will Lay Charges", was developed in partnership with Women's Secretariat (AB, 1997, p.5).

In addition to increasing education and training programs to sensitize justice personnel to wife battering, the justice system has reacted to liberal feminist demands to treat non-stranger assault in the same way as stranger assault. For example, a number of policies stated that:

Domestic assaults are not private matters, and spouses are entitled to protection from violence just as strangers (Regina v. Inwood, p.81 cited in ON, 1994, p.7).

Other indications of liberal feminist thought were identified in statements which describe the necessity of state intervention in cases of wife battering. For example, the New Brunswick directives indicate that:

Families should be protected from the invasion of their privacy except when the interests of individual family members and/or the community are jeopardized. The interests of family members and the community are jeopardized when individuals suffer from the threat or reality of family violence (NB, 1991, p.8).

According to the philosophy of liberalism, the family is designed as an area in which the law has little authority to intervene (Currie, 1992). It is for this reason that early liberal

feminists called for intervention in private family life only when the safety of family members was in jeopardy.

I expected that liberal feminist thought would be more commonly found in these policies since liberal feminists call for reforms to present institutions rather than social structural change. Surprisingly, however, radical feminist perspectives (i.e., radical feminist, socialist feminist and Aboriginal women's perspective) were also incorporated into criminal justice policies on wife battering. The directives issued in the North West Territories, for example, incorporated an Aboriginal women's perspective. References to community well-being and the restoration of harmony in the community were made throughout the text. For instance, it was stated that:

Healing is the restoration of harmony within the individual, the family and the community. As a process it involves both the victims and perpetrators of violence but ultimately, the true focus is the community, because everyone is affected by violence. To achieve change, families and communities, youth and adults, must all acknowledge the negativeness and destructiveness which surrounds them and commit themselves to the healing process (NWT, 1993, p.15).

Furthermore, a number of statements in this policy addressed the social, cultural and economic dislocation of Native peoples which resulted from the colonization process.

There appeared to be a strong commitment to restore the community harmony that was lost after years of poverty and alcoholism.

Native people will continue to address the social, cultural and economic dislocation they have suffered. Much progress has been realized over recent decades, and progress will continue to be made to re-establish and maintain healthy families and communities (NWT, 1993, p.10).

Also, there was evidence of radical feminist analyses in policies published in British

Columbia, New Brunswick and the North West Territories. In accordance with the work of Lorenne Clark (1989), one policy stated that the elimination of violence against women should be the central focus of the justice system.

The elimination of all violence must be the objective of any society, but as the above quoted resolution of the Inuit Tapirisat of Canada suggests, by focussing on family violence and achieving results, society will realize a far reaching impact on the reduction of all forms of violence. The reduction and elimination of family violence must be a priority, because of the scale and tragedy of the problem and its ultimate impact on building and maintaining a healthy society (NWT, 1993, p.9).

Other statements found in the policies and recorded by the researcher appeared to acknowledge wife battering as an outgrowth of the imbalance in power between men and women. Wife battering was linked to traditional patriarchal attitudes which view women as forms of male property. The following statement describes traditional attitudes regarding women as one of the causative elements of wife battering.

Traditional attitudes which view women in married, common law, or dating type relationships as forms of male property to be controlled, dominated or disciplined (NB, 1991, p.5)

Moreover, while patriarchal structures and attitudes were associated with elements that cause wife battering in some instances, this discourse did not frequently appear in the sample utilized in this study. As such, few policies noted that:

The imbalance in power between men and women and the persistence of patriarchal structures and attitudes will continue to be addressed by women's groups and others (NWT, 1993, p. 10)

In summary, then, various feminist analyses of wife battering appeared in the sample of policies. Although the coverage of feminist discourses varied in depth and specificity from one policy to another, all provinces and territories incorporated feminist

discourses.

Non-Feminist Analyses of Wife Battering

Psychological Analyses of Wife Battering

As indicated in Table 1, non-feminist analyses represented approximately 4.5 % of the total page coverage of analyses of wife battering. Psychological and sociological analyses were, however, identified in some instances. The psychological analysis of domestic violence which most commonly appeared in the texts was social learning theory which predicts that males who witness violence as children will grow up to be abusers, and females, on the other hand, will learn to be passive victims of abuse. Moreover, proponents of this model argue that young girls who watch their mothers being abused will expect violence in their intimate relationships. The following statements found in two of the policies exemplify this position:

Violence is a learned behaviour. An individual who grows up in a context where violence is present, where people resolve issues and disputes violently, is more likely to grow up to use violence or accept it as normal than someone who grows up in a context where there is no violence. Typically, the abuser will often himself have been abused or a witness to abuse, as a child. A girl growing up where her mother is regularly beaten will often come to almost expect abuse from her husband or boyfriend, as something which is normal, as a fact of life or, at the very least, something she can do nothing to stop (NWT, 1993, p.7).

Reality: Children do learn to cope. However, evidence suggests that in a significant number of cases where children grow up seeing their mother abused, as adults the males become abusive and the females become submissive to abuse (NB, 1991, p.9).

While some feminists would not disagree with this analysis, they would go further

by suggesting that social learning is influenced by the social, political and economic structures which support male subordination of women. In other words, psychological analyses do not recognize the unequal distribution of power and the socially structured and culturally maintained pattern of male and female relations (Bograd, 1988). It is interesting, however, that psychological analyses of domestic violence seemed to appear most frequently in policies which also had a high level of coverage of feminist analyses.

Sociological Analyses of Wife Battering

There was also some indication that sociological analyses of wife battering influenced the discourse in provincial and territorial justice policies. It is noteworthy that sociological analyses of wife battering were sometimes difficult to differentiate from discourse influenced by feminist perspectives. One possible explanation is that professional academic discourse often accommodate the critique and knowledge of the women's movement (Walker, 1990).

Mainstream sociological analyses of family violence suggest that violence is part of a larger system of cultural norms and values which condones violence. Moreover, proponents of this perspective argue that violence is inherent in structural arrangements that produce stress and conflict between family members. The following statement, therefore, appears to be influenced by sociological discourse.

The 12-session program is given to domestic violence offenders in provincial institutions. It is the main element of dealing with the reasons for violent behaviour and finding alternative ways to deal with conflict and anger (MB, 1995, p.12).

This program, which focuses on anger and conflict management, individualizes the

problem by suggesting that men must learn non-violent life skills. While this may be true, this policy approach ignores the structural roots of wife battering.

In addition, some mainstream sociologists argue that all family members are equally as likely to be violent. Because gender neutral definitions of wife battering minimize the importance of the dimensions of male domination and power, this discourse was coded as representative of sociological analyses. Only two provinces in the sample formulated their definitions of family violence in this way. These policies stated that:

Family violence refers to abuse that occurs between and among persons who are related by affection, kinship and/or trust. **This policy** refers specifically to all forms of violence committed by spouses or partners in an intimate relationship, whether they be legally married. Living together in a common-law relationship or dating (NS, 1995, p.2).

It is clear that this discourse does not account for power imbalances between men and women.

In summary, then, it seems that all provinces and territories incorporated feminist analyses of wife battering in varying degrees. It is noteworthy, however, that in some cases psychological and sociological analyses were also incorporated in the same policy. The integration of several, often competing, analyses to describe the same problem may increase the difficulty of finding a unified solution to wife battering.

LATENT CONTENT ANALYSIS

Latent content analysis is utilized to analyse the symbolic content of any communication (Singleton, Strait & Strait, 1993). Latent content analysis was employed in this study to discern the underlying meaning of the discourse in the sample of provincial

and territorial policies. Pursuant to this analysis, various themes were recorded and are discussed through an analysis of the power of the criminal justice system and the power of feminism.

THE POWER OF CRIMINAL JUSTICE DISCOURSE

As previously discussed, Smart (1989) asserts that law as a discourse has the ability to refute and disqualify alternative discourses and to impose its own definition of events. In fact, it has the ability to impose and define its definition of events on everyday life. Similarly, justice discourse is able to disqualify women's experiences of battering and in turn to empower itself by replacing demands for structural change with an expansion of the current institution (Currie, 1990). In an attempt to illustrate this point, the following analysis explores several themes, namely the power of justice discourse to disqualify women's experiences and disempower women, its claim to resolve social problem, its emphasis on law and order and its insistence in meeting the needs of the criminal justice system.

The Disqualification of Women's Experiences and the Disempowerment of Women

Gender-Neutral Discourse

In some instances, wife battering was defined in gender-neutral terms. The danger in assuming that the violence should be discussed in gender-neutral terms is that it conceals the fact that women are more frequently and seriously abused by men.

Furthermore, gender neutral phrases do not address who initiates the violence or whether the violence was used in self-defence. The following definition, for example, does not account for power imbalances between men and women.

For the purpose of this policy, spouse/partner assault is defined as any physical or sexual assault or threat of physical or sexual assault on a woman or man by anyone with whom he or she has cohabitated or had a long term relationship, whether or not they are legally married or living together at the time of assault or threat (ON, 1994, p.1)

This type of discourse may have major implications for the treatment of female victims. If the state believes that both men and women use violence in the same way, they may not provide battered women with adequate social support (DeKeseredy & Hinch, 1991). Further research may indicate that when gender neutral discourse is utilized to define violence against women, justice officials do not enforce the law in the way it was intended.

In addition, a number of feminist scholars suggest that in order for the criminal justice system to effectively intervene in cases of family violence, women's subordinate position to men must be recognized (Currie, 1990; Kurz, 1992). Currie (1990), for instance, argues that a gender-neutral perspective ignores the experiences and concerns of women who are beaten by their partners and it discourages an analysis of wife battering from a context of societal male supremacy. Thus, gender-neutral discourse conceals women's lived experiences.

Ignoring Women's Wishes

As predicted in Smart (1989) theoretical assertions regarding the power of law, an analysis of the data reveals that criminal justice discourse dismisses women's experiences of abuse. Thus, in turn, disempowers women. In all provinces and territories, justice

officials have been directed to ignore women's wishes and desires as they relate to charging and prosecuting abusers. Variations of the following statements were found in all provincial and territorial directives.

Whether or not the victim expresses fear for their safety, the intimate relationship between the parties (past or present), together with the alleged violence, threats of violence or harassment, will, in all but the most exceptional of cases, provide reasonable grounds to believe that the suspect is likely to commit other offenses against the victim. This is so even if the suspect denies any such intention or some time has passed between the incident and apprehension, particularly if the alleged behaviour involves breach of an existing restraining order (MB, 1995, p.31).

Where there is evidence indicating an offence took place, the officer will submit a RCC recommending a charge even if no injury occurred and regardless of the desires of the victim or apparent willingness of the victim to testify in criminal prosecution (BC, 1996, p.7).

Several explanations are offered to justify ignoring the wishes of the victim. For instance, the policy published in British Columbia indicated that inaction by the criminal justice system will reinforce the abuser in his belief that his behaviour is acceptable. Other policies suggested that ignoring women's desires is in their best interest since women will be better protected from violence if the criminal justice system intervenes. As some feminist writers (Currie, 1990; Hilton, 1989) argue, this approach, whereby the justice system acts on behalf of women, is paternalistic in nature and does not empower women. These statements appear to support the view that women are not rational beings and cannot make appropriate decision concerning their welfare.

Law's Claim to Resolve Social Problems

Effective and Necessary

In various policies, the criminal justice system was presented as an effective and necessary form of intervention to eliminate violence against women. One could discern that this claim strengthens the position of the justice system to define appropriate agency responses to wife battering since it proclaims to be able to solve the problem. Furthermore, as Snider (1991) points out, the justice system is fulfilling its need for the effective and efficient processing of cases. The following statement is indicative of the way in which the justice system extends its domain and in turn strengthens its own internal processes by emphasizing the potential of a law and order approach.

A rigorous policy to arrest, charge and prosecution, as promoted by this policy is necessary to help eliminate violence in relationships (BC, 1996, p.3).

Similarly, statements which emphasize the usefulness of the criminal justice system were recorded.

The police may be the only chance for effective intervention in cases where the couple is elderly and abuse has been long-term, or where cultural, religious, community or family values, sexual orientation or disability (physical or mental), make seeking assistance to stop the violence difficult or impossible (BC, 1996, p.10).

This statement reinforces the belief that wife battering cannot be eradicated without first engaging with the justice system. Theme appears to imply that the criminal justice system offers the best solution to wife battering in Canada.

The Potential to Effect Change

Policies, such as those published in British Columbia, Nova Scotia and Quebec,

emphasized the potential of the criminal justice system to effect change in societal attitudes. This claim supports law as a discourse by suggesting that the criminal justice system has the ability to resolve structural problems. Ironically, these statements suggest that the existing institution has the ability to resolve gender inequality while maintaining the status quo. For example, these policies indicated that the justice system plays a symbolic role in resolving social problems.

Justice agencies play a pivotal role in the interdisciplinary response to family violence. Justice representatives will participate in the development and the implementation of protocols in community-based inter-agency committees throughout the province. It is essential that the public understands and accepts the role of the criminal justice system in responding to family violence. A public attitude which reflects abhorrence and intolerance toward this behaviour will support strong measures by justice agencies (NS, 1995, p.8).

Crown attorneys must realize that criminal prosecution, besides aiming at stopping the crime and protecting society, also contributes a public service which can be a sound contribution to the solution of conflicts (PQ, 1986, p.23).

According to these provincial and territorial directives on wife battering, then, it appears that justice system is an effective tool in the resolution of conflicts. However, one may discern that the justice system has also been successful in disempowering women by minimizes their concerns and wishes at various stages of the justice process. Gender and class inequality is replicated not eradicated by the current system.

Law's Emphasis on Law and Order

Vigorous Arrest and Prosecution

As various researchers have argued, the criminal justice system is best suited to

increase the number of arrests and convictions rather than to address gender equality demands (Currie, 1992). As Currie (1990, 1992) has argued, the criminal justice system is best suited to call for more of the same. Therefore, it is not surprising that the justice system has responded to feminist demands by calling for more law and order. For instance, policies published in two provinces stated that:

The response of criminal justice professionals to family violence has improved markedly over the past several years as a result of uniform charging policies and the commitment of individuals who work on the front lines. Still, the collective impact of these efforts is insufficient and stronger measures must be taken to underscore the seriousness of family violence and structure the discretion exercised by front-line decision makers. **A pro-arrest, pro-prosecution policy will be implemented** (NS, 1995, p.2).

Spouse/partner assault should be treated as seriously as any other serious criminal matter. It is a prevalent and serious social problem and all such assaults shall be prosecuted with vigour (ON, 1994, p.1).

A strong law and order approach appears to be justified as a symbolic mechanism which will change societal attitudes. The following statement, for instance, appears to imply that the public can be coerced by the justice system to change their beliefs regarding wife battering.

It is essential that the public understands and accepts the role of the criminal justice system in responding to family violence. A public attitude which reflects abhorrence and intolerance toward this behaviour will support strong measures by justice agencies (NS, 1995, p.8).

It is noteworthy that liberal feminists who lobbied for law reform in the early 1980's did, in fact, argue that weak sentencing and arrest policies serve to increase the powerlessness and hopelessness of women who have been battered (Currie, 1992). They emphasized the symbolic dimension of law as a deterrent. It is not surprising, then, that the

criminal justice responded promptly to these demands since these reforms involved extending the current system. Unfortunately, many early feminist showed little awareness of the unintended consequences of calling for more criminal justice.

Deterrent Sentencing

As previously indicated in Chapter Two, liberal feminists sought to use the symbolic dimension of the law to denounce wife battering. This demand to widen the net of social control over male offenders and to punish them more severely was incorporated by most provincial and territorial governments. For instance, the following statement demonstrates the desire to use the law to deter men who abuse their wives.

The Minister of Justice will make representations to the Chief Judge of the Provincial Court and the Chief Justice of the Supreme Court to emphasize the need for denunciation and the deterrence in sentencing of perpetrators of family violence, and to gain the support of the Judiciary for expeditious processing of these cases (NS, 1995, p.4).

Also, statements were recorded which advocated longer prison terms in serious cases. This order was usually qualified a need that certain legal and extralegal case characteristics be present in order to impose a more severe sentence.

Thus the Ontario Court of Appeal has indicated that a custodial term should be the norm where there is a significant bodily harm. It has also indicated that where the assault is repetitious or persistent and escalating, a longer custodial term may be justified (ON, 1994, p.7).

Although there is little documented proof of its success rate, it seems that the justice system is convinced of its ability to prevent wife battering through the imposition of punitive sanctions.

The Needs of the Criminal Justice System

The Effectiveness of the System

In accordance with the work of Snider (1991), patterns which reflect the need of the criminal justice system to maintain itself and process cases efficiently appeared in the provincial and territorial policies on wife battering. For instance, the following statement reveals how the justice system operates in order to protect its efficiency rather than to empower women.

Where a complainant/victim fails to appear in Court in response to a subpoena, the Crown Attorney should take such steps, as in the opinion of the Crown Attorney, are necessary to ensure that the Crown retains control and appears to retain control over the prosecution. It is of paramount importance that no one, (in particular neither the complainant/victim nor the accused) perceives that the criminal process can be frustrated by the complainant/victim failing to respond to a subpoena (NS, 1996, p.7).

By emphasizing that Crown prosecutors must retain control over the prosecution, one could discern that the justice system hopes to ensure that cases will be processed in a timely fashion. Moreover, it ensures that cases will be processed more efficiently than if women were given the opportunity to decide whether or not to proceed with the prosecution.

Improving the Criminal Justice Response

All provincial and territorial policies discussed the need to assist the victim in their function as a court witness. The emphasis, however, was not on ensuring that the woman was empowered by her decision to testify but rather on the needs of the justice system to have a cooperative witness. The importance of meeting the needs of the justice system is reflected in the following statement.

The action policy provides for the referral of the victim to the social organizations concerned in order that aid and counsel can be given. The victims will thus be able to take stock of their situation and, with the aid of experts, find the most rational solution to their problem. Finally, this action policy is articulated around a plan of action by the agents and a procedure clearly determined in light of experience and the requirements of law (PQ, 1986, p.14).

Furthermore, statements were recorded that indicated that victim support was necessary in order to reduce the trauma caused to the victim when she must testify in court.

Court attendance and participation in court proceedings is often traumatic for victims of woman abuse. This program (Victim Witness Program) helps reduce the victim's anxiety while enhancing her ability to discharge her obligations as a witness (NB, 1991, p.48).

This statement appears to suggest that the justice system requires that women testify in court in order to process cases effectively and efficiently. It is noteworthy that while feminists called for women to be informed during the court process, they did not intend for the need for information to override the need for services that empower women.

THE POWER OF FEMINISM

As Smart (1989) has argued in Feminism and the Power of Law, feminism must use its power to redefine the truths of events as interpreted by law and reassert its own definitions to make visible women's experiences. Feminism, then, must challenge legal discourse as well as acknowledge the limitations and consequences of law reform.

Pursuant to this analysis, it is not surprising that criminal justice reforms in Canada have had unintended consequences which have served to empower law. An analysis of the data indicates, however, that feminism has also had a positive impact on criminal justice

discourse.

As noted in Chapter Two, Ursel (1991) suggests that feminist involvement with the state has increased services, resources and options to women who are battered by their husbands. Furthermore, she contends that feminism has been successful in placing wife battering on the public agenda. Similarly, the following themes that emerged from the data reflect the power of feminism to influence criminal justice discourse and improve women's position vis-à-vis the justice system.

Empowering Women

Emphasizing Women's Experiences

As previously discussed, when analyses of wife battering were included in the policies, feminists analyses were most commonly utilized. Further, discourse which describes women's experiences of abuse was found in throughout most justice policies on wife battering, with exception of the policies published in Nova Scotia. For instance, the Victim Services Policy from Ontario introduced its analysis of wife battering by emphasizing that one in every five women in Canada is abused by her partner each year. This policy indicated that in the majority of cases the victim is female and the offender is male.

Victims of spouse/partner assault come to the criminal justice system reluctantly after many failed attempts to stop the violence in their relationship. Barriers include fear of retaliation or revenge by the accused, fear that she will be blamed for the abuse, and for immigrant women, fear that their partners will be deported, and/or that their partners will be treated unfairly because of racism and discrimination. Victims also experience fear related to the custody of their children, a threat which is commonly used by their partner to maintain control in the relationship (ON, 1995, p.1).

This statement, which describes women's fears and concerns, represents how women's experiences were validated in the texts.

At least four of policies recognized the dynamics of abuse as well as the complexities faced by women as they decide whether or not to leave an abusive relationship. More importantly, these complexities were portrayed as understandable and justified given women's position in society. For instance, various statements suggested that:

It may be difficult for a woman to leave the relationship because of love, cultural/religious values, socio-economic condition, fear or the denial of the violence in the relationship. Violence often escalates and may continue or worsen if the woman leaves the relationship. In addition, unique to the situation of violence in relationships, the accuser and accused usually reside within the same home, enabling the accused to further control or abuse the victim (BC, 1996, p.3).

In addition to validating women's experiences, several statements indicated that women must make difficult decisions when deciding whether or not to charge an abuser and/or to leave the relationship. In fact, it would appear that, in some instances, justice officials have been directed to treat women's decisions as rational under the circumstances.

Many abused women go through an “ambivalent” stage, trying to decide whether to go or stay. Forces pulling them away are as strong as forces pulling them toward the relationship. They leave to test if they can survive outside the relationship, and return to test if the relationship can change. While frustrating to outsiders, this stage enables women to finally resolve their situation (NB, 1991, p.10).

The complexity of a conjugal relationship with all that it implies of magnanimity, pardon and economic, social or emotional dependence, makes it useless and inopportune to question the victim’s reasons in only periodically having the violence stopped (PQ, 1986, p.13).

The incorporation of these statements demonstrates feminism's ability to redefine events in order to make visible women's experiences of violence in intimate relationships. Moreover, they seem to imply that women who are battered make rational decisions given their situation.

The Limits of Criminal Justice

Inability to Change Public Attitudes

Although various policies suggest that the justice system has a symbolic quality which can denounce wife battering and influence societal attitudes, the policy published in the North West Territories indicated that enforcement of the law, alone, cannot change cultural beliefs.

[T]here is a limit to the extent to which the criminal justice system can reasonably be expected to replace the broader process of socialization that takes place in the home, school and community. Incarceration, or any other kind of punishment, can do little, in itself, to address the societal values that lie at the root of the violence. A violent act is a criminal activity that, if brought to the attention of authorities, invokes the criminal justice system. The system addresses the particular incident related to that individual offence, without necessarily addressing the underlying social context in which the violence incident arose (NWT, 1993, p.11).

Not only were the limits of invoking the criminal justice system to resolve social problems addressed, at least two policies recognized that sexist attitudes held by justice officials may impact the processing of wife battering cases. The following statement indicates that police officers may not identify battered women as deserving of police protection.

In general, these sorts of situations are of little interest to the policemen. The fact that many police forces classify acts of conjugal violence as being neighbourhood squabble clearly shows that policemen as a whole have a tendency to consider them as a private matter where the acts of the aggressor, while forbidden by the Criminal Code, are in a sense non-criminal in their estimation. To that fact must be added that sexist attitudes can be detected in some cases. In short, the mentality developed in the policemen makes him prefer social solutions to judicial ones (PQ, 1986, p.10).

It is noteworthy that police processing of wife battering cases has evolved significantly since the mid 1980's when this policy was first published. For instance, a number of provinces have developed registry systems and tracking projects to assure the public that wife abuse is treated as a crime. These mechanisms, however, only ensure that wife battering cases are treated in a uniform manner throughout the criminal justice process. They do not guarantee that the justice professionals will view wife abuse as a crime. Ferraro (1989), for example, found that police officers continue to hold stereotypical views of women and to treat wife battering less seriously than stranger assaults. This theme which emerged from the data supports the argument made by feminist writers who warn of the disadvantages of using criminal justice to fight for gender equality.

The Justice System as Reactive not Proactive

While various statements identify the inability of the justice system to change

public attitudes, others are critical of the justice system's reactive response to wife battering. For instance, it was argued that:

The justice system, as it is currently structured, is by definition, reactive. It comes into play once a crime has been brought to the attention of the authorities. In spite of a history of constantly increasing levels of resources devoted to criminal justice, these resources are never quite enough. There is no indication that these resources have had any positive impact on reducing levels of crimes in our communities" (NWT, 1994, p.3).

This statement implies that the criminal justice system cannot prevent wife battering. This type of discourse is consistent with the work of Snider (1991) who contends that the criminal justice system directs attention away from structural problems by individualizing behaviour. Moreover, documenting the resistance to criminal justice may empower feminism by suggesting the need for alternative remedies to wife battering. Thus, this acknowledgment may open the door for feminism to engage in the redefinition of events (Smart, 1989).

Secondary Victimization

The last limit of the criminal justice system that was noted by at least three provinces and territories was that the justice process often creates secondary victimization. Statements recorded from these policies recognized that the justice process is difficult for women and that it may cause additional trauma to the victim. One policy indicated that:

As a result of a lack of understanding of the dynamics of wife abuse, the criminal justice system response has often created secondary victimization of women victims. In many cases which are reported to the criminal justice system women are blamed for the violence they experience - by the police because the woman may seem hysterical, violent or intoxicated; by Crown counsel because the woman may desire the husband back in the family home or may have failed to leave the situation; or by the court because the woman may refuse to testify (BC, 1996, p.2).

Other statements that were recorded noted the physical and emotional effects of secondary victimization on women. Moreover, the following two statements recognize that forcing the woman to testify may cause additional trauma.

Victims of domestic violence often experience physical and psychological trauma unique to this type of crime. If they have to appear in court, they may undergo additional trauma (MB, 1995, p.2).

Crown Attorneys must ensure that victims of crime are not acting the way they are because of threats made against them or their children, or because of the risk of their being subjected to violence if they testify against the author of the crime. In these painful situations, it does not seem right to force the victim to testify by means of penalty, minimum though it may be, to give evidence (PQ, 1986, p.19).

Although most policies stated that issuing a warrant to arrest a woman for refusal to testify was a last resort, it was not clear that women will not be charged if they refuse to testify. Accordingly, one could discern that the justice process mirrors the factors that research and the experiences of women who are abused agree contribute to the abuse (DeKeseredy & MacLeod, 1997).

In summary, then, these statements appear to imply that traditional stereotypes of women and a lack of understanding of women's experiences of abuse have caused additional trauma to women who have been battered. Many provincial and territorial justice policies illustrate Smart's (1989) argument that the legal cure is often as bad as the original abuse.

Social Structural Change

Education and Media Campaigns

While all provincial and territorial policies in the sample have reacted to feminist demands for education and training of criminal justice personnel, only one policy emphasized social transformation through educational and media campaigns. Television campaigns, for example, have been organized in a few provinces to help people "understand how negative portrayals of women contribute to real violence against women in society and at providing achievable methods for viewers to take action to curb violence against women"(NWT, 1993, p.10). Unfortunately, though, more campaigns have focussed on the role of the police in responding to wife battering and on reformist 'solutions' rather than on social reform.

It was noteworthy, however, that the North West Territories called for fundamental changes requiring men to assume their part of the responsibility to bring about change in societal attitudes.

Women have been instrumental in encouraging all of us to confront the violence in our society. Women as victims have minimal investment in the maintenance of the status quo, and will continue to play a vital role in any strategy to arrest family violence. Men must now start to assume their part of the responsibility to bring about change in attitudes and behaviour. Youth must also play a key role in overcoming destructive social patterns (NWT, 1993, p.26).

There is a need to do more than make improvements and adjustments to the justice system- adjustments are necessary but they are not in themselves sufficient to effect the fundamental change needed (NWT, 1994, p.4).

These statements appear to indicate a growing awareness that social transformation is needed in order to prevent wife battering. However, there was little mention of political

or economic transformation in the sample of policies studied.

Meeting the Needs of Women

Services for Women

In all provinces and territories services were offered to help meet the needs of women who have been battered by their partners. This is a marked improvement when compared to support services available to battered women and their children in the 1970's. All provinces and territories recognized the need for protection, counselling services and transition houses as essential services for battered women.

Protecting all parties in relationship from emotional, psychological and physical abuse is the foremost concern of all aspects of the criminal justice system (BC, 1996, p.22).

Not only are services for battered women part of provincial and territorial strategies for dealing with wife battering, the administration of services was often informed by feminist discourses which aim to empower women by giving them the opportunity to improve their situation on their own terms.

Counsellors should aim at helping the woman to develop sufficient emotional and economic independence so that she can leave her husband, if she so chooses, and avail herself of community resources, especially when it appears that the abuser refuses to become involved in counselling. The man who refuses to seek help will become abusive (NB, 1991, p.82).

Also, the utility of offering such services was based on women's experiences and concerns. The following statement emphasizes interventions which support and empower women.

Providing victims with relevant and helpful information that allows the victim to receive validation of fears and emotional support, receive proper and practical assistance to participate effectively in criminal proceedings, gain access to the resources they require to help themselves and their children, receive appropriate coordinated services and gain knowledge and understanding about spouse/partner assault, including a feminist analysis of the issue, and information concerning the effects of violence on children who witness violence (ON, 1995, p.2).

In fact, some policies indicated that services should be woman centered. For instance, they suggest that:

Understanding the complexity of the issues confronting victims of spouse/partner assault affirms the need for Victim/Witness Assistance Programme staff to provide services which are woman positive, safety-sensitive and considerate of the many issues facing victims of spouse/partner assault as they participate in the criminal justice system (ON, 1995, p.2).

Offering support services, which are woman centered, validates women's experiences and in turn empowers them.

In addition to supporting women through the court process, the long term needs of women were recognized by a number of provinces and territories. Manitoba, as a case in point, provides second stage programs for women who have been battered. These services include counselling for women who have left shelters, affordable, longer-term housing and women's resource centres to help women re-establish and maintain successful experiences in social, family and work relationships.

Similarly, some provinces and territories have issued directives which involve removing the abuser from the home. Following the Victims of Domestic Violence Act enacted in Saskatchewan, various provinces and territories allow for the victim to seek an order that would oblige the person responsible for the violence to leave the home. While

this initiative is somewhat experimental, it promises hope for women who decide to leave an abusive partner.

Information for Victims

All provinces and territories recognized women's need to be provided with relevant and helpful information. The following statement reflects how women's need for information is acknowledged in the texts.

Information or referrals must also be given to victims regarding the custody of children, maintenance, available counselling services, transition houses, the ability to obtain legal counsel or any other advocacy assistance they may require (BC, 1996, p.24).

To summarize, feminism has impacted criminal justice discourse on wife battering. It has brought women's experiences, needs and concerns to light. These themes will be examined in conjunction with themes that empower law in the following discussion section.

CHAPTER SIX

DISCUSSION

The findings from this study indicate that feminism has had an impact on the legal discourse in justice policies on wife battering, and on the criminal justice process. The incorporation of feminist discourses, however, has not been an unqualified success. While the experiences of battered women have been documented in provincial and territorial policies, there appears to be a serious mismatch between criminal justice discourse on wife battering and women's experiences. As such, criminal justice solutions to wife battering tend to empower the law rather than empower women.

As various authors suggest, there are often unintended consequences to law reform. In accordance with Smart's (1989) theoretical discussion of the power of law, an analysis of the data reveals that criminal justice reforms tend to disempower women. Furthermore, women's experiences are secondary to the efficient processing of cases. To illustrate this point, contradictions which limit the impact of feminism and the limitations of criminal justice reform will be discussed.

On the other hand, the impact of feminism on the law should not be understated. A number of themes which reflect the impact of feminism on law and legal discourse will also be detailed. The three main themes that demonstrate the impact of feminism on justice discourse include the recognition that women need a variety of services to meet their needs, an awareness of some of the complexities faced by women who are battered and an acknowledgement of women's concerns in some instances.

Contradictions Which Limit the Impact of Feminism

Although a manifest content analysis reveals that feminist analyses of wife battering have been incorporated into justice policies, a latent content analysis of the data suggests that the recognition of feminist discourses is somewhat superficial. Moreover, a number of contradictions exist between the analyses of wife battering and the directives issued in provincial and territorial policies in Canada. It appears that whilst feminist discourses have been utilized to describe wife battering, solutions are characterized by a traditional law and order approach.

The contradictions between the analyses of wife battering and the solutions and/or protocols in provincial and territorial justice policies seem to have been more successful in empowering the criminal justice system than in empowering feminism. In fact, one could argue that feminist discourses have been incorporated into justice policies to legitimize the role of criminal justice in the face of feminist scrutiny.

There are four main contradictions between feminist analyses of wife battering and the policies studied. These contradictions include: (1) the recognition of women's experiences and the denial of women's wishes, (2) critiques of the justice system and its ability to eliminate wife battering, (3) the call for social transformation and the emphasis on law and order and, (4) balancing the needs of women with the needs of the criminal justice system.

First, various directives issued to criminal justice professionals began by acknowledging the dynamics of abuse which often make leaving an abusive relationship very difficult. However, the directives issued to justice personnel ignore these very

complexities. The following statement represents such an example.

Accordingly, it is important that criminal justice system personnel recognize the power imbalance and the dynamics which operate to prevent a woman from taking steps to end abuse. A rigorous approach to arrest, charge and prosecution, as promoted by this policy is necessary to help eliminate violence within relationships (BC, 1996, p.3).

Although a feminist analysis of wife battering has been incorporated into the discourse, feminist assertions were negated when provincial and territorial polices called for justice officials to ignore women's wishes, desires and concerns when charging and prosecuting the abuser. It appears, then, that women's experiences continue to be ignored in practical directives for criminal justice agents. Moreover, justice policies appear to emphasize a traditional patriarchal protectionist approach which serves to control women rather than strategies which could empower women. This traditional approach, whereby the state acts on behalf of women in their "best interest", increases state control over women's lives as it is the state that makes decisions for women. This disempowers women because their concerns, demands and insights into the situation are marginalized.

In addition, it should be noted that recognizing wife battering as a crime does not necessarily empower women. Although some feminists lobbied for reforms to the criminal justice system, few feminists, at that time, showed much familiarity with the limits of the criminal justice system. Moreover, they did not foresee the consequences that law may generate as a consequence of its operation (Smart, 1989). Feminists did not anticipate that law would only appear to respond to women's wishes, desires and experiences to legitimize the law and order agenda. For example, the following statement incorporates feminist discourse by suggesting the complexity of wife battering but then emphasizes the

needs of the criminal justice system.

Complex factors affect the victim's willingness to cooperate with the criminal justice system. This policy promotes rigorous prosecution of the offence, but also outlines factors which may tend to re-victimize the woman so that in administering the policy an appropriate balance can be struck between the interests of the victim and the criminal justice system (BC, 1996, p.11).

It is clear that while feminist analyses of the problem are offered, feminist solutions to wife battering, which include empowering women and validating their experiences, have had less of an impact on the practical directives issued to justice personnel. In fact, various feminist writers have argued that it is not possible to strike a balance between the needs of women and the needs of the justice system since they stand in opposition one to the other. For example, if women are allowed to use the justice system to meet their needs, the justice system will not be able to manage cases efficiently since many women only want the police to stop the violence. Often, they do not want to charge the abuser because they do not want to hurt him. The system cannot follow through to the prosecution or sentencing stage. Accordingly, the justice system cannot complete its mandate to provide general or specific deterrence.

Second, various feminist critiques of the criminal justice system have been incorporated into some policies. As noted earlier, one could discern from some statements that the criminal justice system was ineffective in eliminating wife battering. Moreover, various critiques recognize that the justice system could not change public attitudes since it cannot replace the broader process of socialization. In fact, some policies indicated that the justice system has been unsuccessful in changing societal attitudes. For

example, the policy published in the North West Territories in 1993 states that “enforcement of the law alone cannot change public attitudes to violence if people actually think that it is alright to beat someone” (p.12).

Although these critiques are acknowledged in the discourse, the protocols continue to suggest that the justice system is an effective and necessary form of intervention to eliminate wife battering in Canada. Many policies emphasized the symbolic role of criminal justice in resolving social problems. Law, then, continues to strengthen its claim to power in the face of feminist critiques. As such, feminist discourses continue to be marginalized in criminal justice discourse.

As noted in Chapter Three, the idea that law has the power to right wrongs is pervasive (Smart, 1989). Although some provincial and territorial policies acknowledge the limits of law reform, an analysis of the data reveals that legal discourse in justice policies continues to support the idea that the law has the ability to right wrongs and resolve social problems. Some policies, for example, stated that law has the potential to remedy gender oppression.

At a recent meeting of Ministers responsible for the status of women in Regina, a declaration was passed on the subject of the rights of women subjected to violence. In the declaration, it is noted that violence against women is linked to their unequal status in society, and it calls on all participants in the justice system to continue to remedy the disadvantages suffered by women who have been subjected to violence (NWT, 1994, p.7).

The idea that law has remedied and will continue to remedy the disadvantages suffered by women is ironic. The criminal justice system was not designed to remedy social problems but rather to increase social control over problematic populations such as the young, the

poor, ethnic groups, women and “radicals” of all kinds (Snider, 1991). Furthermore, as Snider (1991) has argued, the criminal justice system’s only documented success “is making those subjected to it more resentful, more dangerous, more economically marginal and more misogynous”(p.239). Thus, it is unlikely that this system has the potential to remedy the disadvantages suffered by women or to shift the distribution of power from men to women and children (Snider, 1991).

Third, there seems to be a conflict over the best strategy to eradicate wife battering. Some policies, for instance, suggest that social transformation is needed in order to overcome destructive social patterns. In fact, some policies recommend that entire communities must be empowered in order for healing to take place. Unfortunately, though, feminist strategies which call for social transformation from the bottom up were marginalized while vigorous arrest policies, pro-prosecution strategies and deterrent sentencing were promoted. This is problematic, as Stanko (1990) has argued, because an emphasis on law and order does not provide us with remedies to counteract the actual causes of wife battering. Instead, the emphasis on the punitive nature of the criminal justice system serves to exacerbate existing class biases and gender oppression.

Finally, a number of women’s needs have been addressed by provincial and territorial policies. Services for women who are battered have been well documented and women’s need for information has been acknowledged. On the other hand, one could discern that many services offered in cooperation with the justice system are not only designed to meet women’s needs but also to improve women’s cooperation during the

criminal justice process. The following statement, for example, suggests that services have been designed to encourage women's participation in the court process.

Safety of the victim must be the primary concern of the justice system. Victims must be supported throughout, to protect them from harm and to encourage their participation in the court process (NS, 1995, p.7).

Similarly, while the justice system has incorporated feminist discourses which acknowledge women's needs, it has used that opportunity to improve women's cooperation in testifying against their husband or partner.

Crown counsel are reminded that the victims of spouse/partner assault are frequently ambivalent about the court proceed. Additional care in listening to their concerns and explaining the process, though time consuming, is necessary to the conduct of the case. Where possible, the victim interview should be conducted shortly after the assault. Victims are frequently more cooperative if they are advised of their status in the prosecution and of the importance of the prosecution at an early date (ON, 1994, p.3).

In accordance with the work of Snider (1985) and Currie (1990), the findings from this study indicate that the criminal justice system incorporates feminist discourses in order to strengthen and extend the current system. It seems that the consequences of law reform in cases of wife battering are reminiscent of those which emerged following the reform of rape laws in Canada in 1983. For instance, Laureen Snider (1985) argues that:

[I]n allowing women to charge husbands, the division of the law into three tiers with specified punishment for each, the changes in the amount and type of evidence required to convict a defendant- one sees that all these made the chances of successful conviction higher. They may make it easier for women victims to testify, but they are changes which tighten up the criminal justice system, making the criminal law on sexual assault (on paper at any rate) more punitive and effective (p.350).

In summary, then, a review of the findings suggests that feminist reforms of the criminal justice system have as unintended consequences strengthened the current system more

than empowered women.

The Limitations of Criminal Justice Reform

As Smart (1998) contends, feminist demands for criminal justice reform have led to the creation of legislation and protocols which are far removed from the values women called for and the politics of the women's movement. Most women continue to be disempowered through the application of zero tolerance policies that advocate mandatory charging and prosecution strategies. Moreover, an analysis of the data clearly indicates that women's wishes, desires and concerns continue to be deemed secondary at various stages of the criminal justice process.

Discourse which indicates the need for social, political and economic transformation appears to be marginalized in provincial and territorial justice policies. The findings from this study suggest that wife battering can be resolved within the confines of current institutions, namely the criminal justice system. However, if one accepts that the current system can eliminate wife battering then there is no need for a meaningful redistribution of power (Currie, 1992). Furthermore, Currie (1992) contends that criminal justice intervention in cases of wife battering could be strengthening the very processes and institutions that gave rise to the demand for justice in the first place since patriarchal and capitalist structures are replicated through the legal system.

Similarly, by emphasising a strong criminal justice response to the issue of wife battering, the justice system gives the impression that it has dealt with the problem. However, as various feminist writers suggest, this more accurately allows the justice

system to shape and limit its response to wife battering (Hilton, 1989). For instance, stated that:

Changes continue as the government adapts and improves the way it deals with domestic violence. Every initiative is expected to complement existing processes and programs. The long-term objective remains to change the values and attitudes that contribute to and generate violence against women (MB, 1995, p.1).

By accepting that new initiatives should complement existing institutions, wife battering is accommodated within the current system. The criminal justice system, then, can respond with by increasing law enforcement. This may have a negative impact on more radical community based strategies if their services do not appear necessary (Currie, 1992).

In addition, one could discern that the justice system identifies itself as integral to preventing wife battering. The justice system is able to maintain over-arching control over 'solutions' to wife battering. For example, one policy from Nova Scotia indicated that:

The Department of Justice will monitor the impact of legislation, programs and services and advocate for change when current strategies are deemed inadequate. The Department of Justice will review the 'best practices' of other jurisdictions and commit to a program of continual improvement in services provided to victims of family violence in Nova Scotia (NS, 1995, p.9).

This gives the justice system more power and authority than other agencies over the best course of action to be taken in order to prevent and eliminate wife battering.

In summary, then, feminist discourses appear to be secondary to the needs to the criminal justice system. Although feminist discourses are used to identify and describe wife battering, they appear to be minimized in criminal justice discourse about solutions or responses to the problem.

The Potential of Feminism to Impact Criminal Justice Policies on Wife Battering

Although it seems that feminist engagement with the criminal justice system has often been futile, feminism has impacted justice discourse and the processing of wife battering cases to some extent. Feminism has been successful, in many cases, in asserting definitions of wife battering which recognize some of the complexities of wife battering and dynamics of abuse. The following statement, for instance, acknowledges the experiences of women who have been beaten and gives meaning to women's use of violence.

In the early stages of a violent relationship, violence is less frequent. Victims try hard to accommodate the abuser, partly in hope off avoiding the violence. In later stages, as a survival technique, some women may provoke fights to get the violence over with and reduce the tension (NB, 1991, p.10).

The incorporation of feminist analyses of wife battering illuminates the experiences of women from their own frame of reference. Moreover, many statements that were recorded validate women's experiences and characterize women as survivors of harrowing, life-threatening violence. Further, women were often depicted as having many adaptive capacities and strengths and not as helpless victims or as provocative women who ask for the abuse (Bograd, 1988).

In addition, feminism has impacted the criminal justice process to some degree. Traditionally, women's concerns, wishes and desires have been marginalized during the criminal justice process. However, it seems that in some circumstances justice officials have been directed to take the woman's wishes into account. For example, some

statements suggest that police officers must receive a woman's permission to refer her to counselling services. They may only refer her for support if she so wishes.

The police officer will inform the victim of any community-based specialized victim services (including woman assault centre), and will refer her case with her permission (BC, 1996, p.10).

The victim should be informed that a victim support worker or advocate, if available, may be present for the police interview, if she so wishes (BC, 1996, p.10).

It would appear, then, that feminism was successful, at least in part, in having women recognized as rational beings who can make decisions regarding their use of support services.

In addition, Victim Impact Statements have been introduced across Canada to provide the victim an opportunity to describe the emotional, economic or physical impact that a crime has had on their life. This statement is read to the court prior to sentencing and is meant to provide greater detail with respect to the impact the crime has had on the victim. As such, the Victim Impact Statement offers women an opportunity to describe their experiences and concerns in their own words. These directives often suggest that:

Crown counsel should consult the victim before making a commitment in plea discussions which affects the victim or sentence of the accused (BC, 1996, p.15).

Unfortunately, there is no guarantee that the victim's words will be listened to in court. In fact, recommendations made in the Victim Impact Statement may be expressly excluded by the court. Furthermore, even when the statement is read in court there is no assurance that the court will acknowledge that battered women's experiences are legitimate. As Smart (1989) suggests, "she is 'empowered' to speak her story, but it is listened to in the

same old way (p.48)".

Finally, feminism has been influential in demanding that the criminal justice system respond to a variety of women's needs. Moreover, some policies recognized that battered women have short-term, medium-term and long-term needs that must be addressed. For example:

Victims are often in need of a number of different services. After an assault they may need emergency and crisis services and access to a safe place to stay. In the medium and long term, they may need counselling, information and support for the court process and possibly housing (NWT, 1993, p.18).

While most provinces and territories recognize the necessity of meeting women's needs, there is some concern over whether or not these needs can be met within the current system which supports the status quo of social, economic and familial relations.

In summary, then, feminist discourses appear to have had an impact on the way the justice system handles wife battering cases. Feminist strategies have been successful to some extent in expanding services that are provided to women who are battered. In the final section, a brief discussion of secondary trends that emerged from the data will be explored.

CHAPTER SEVEN

CONCLUSION

The results of this study indicate that feminism has affected the legal discourse employed in provincial and territorial criminal justice policies in Canada. Patterns in the types of analyses found in justice policies suggest that more coverage has been devoted to feminist analyses than non-feminist analyses of wife battering. Furthermore, feminist discourses have been utilized to define and describe the roots and relationship dynamics associated with wife battering. For instance, the power imbalance between men and women, the continuum of violence against women and the pervasiveness of wife battering in Canada were often included as part of feminist analyses. In addition, various lines of feminist thought were apparent in the policies. There was some indication that liberal feminism, radical feminism and an Aboriginal women's perspective had an impact upon the legal discourse relating to violence against women in intimate relationship in justice policies.

Non-feminist analyses of wife battering were incorporated into provincial and territorial policies in some instances. Psychological analyses, notably the social learning theory, were utilized to explain the intergenerational transmission of family violence. This analysis suggested that a boy who grows watching his father abuse his mother will learn to act violently in his intimate relationships with women. Likewise, girls who witness their mothers being abused will learn to expect violence as a normal part of their intimate relationships with men.

Mainstream sociological analyses of wife battering were less apparent in the

sample of justice policies. Because the intentions of policy writers was not known, definitions of wife battering that did not account for gender but that recognized the pervasiveness of family violence were considered to be representations of sociological analyses. Also, treatment programs which emphasized anger and stress management were included in this category. In the end, the findings from this study indicate that the level of coverage devoted to sociological analyses of domestic violence was not substantial.

At first glance, it seems that feminism has been successful in reasserting its own definition of wife battering in provincial and territorial justice policies. However, the degree to which feminism has impacted upon the criminal justice process and protocols is less clear. Pursuant to a more in-depth analysis of the data, the researcher found several themes which appear to empower the law rather than women in provincial and territorial justice policies. Specifically, the data suggest that women's experiences are often secondary to the needs of the criminal justice system. For instance, all provinces and territories issued directives to justice officials which disempower women by ignoring their wishes and concerns regarding charging and prosecuting the offender. It is noteworthy that mandatory charging and pro-prosecution strategies increase the effectiveness of criminal justice processing.

In addition, law and order approaches to wife battering were reinforced by a number of themes that emerged from the data. There appeared to be an emphasis on the effectiveness and necessity of a criminal justice approach to wife battering. Similarly, many policies emphasized that the criminal justice response to wife battering should be improved in order to increase the effectiveness of the system. This was complemented by

discourse which suggested that the justice system has the potential to effect change in societal attitudes. This discourse implies that the law has the potential to cure social wrongs. Finally, most policies stressed the need for vigorous arrest and prosecution strategies and called for deterrent sentencing. This is antithetical to the myriad concerns and interests of women.

On the other hand, while its degree of influence was not determined, it is clear that feminism has had an impact upon the legal discourse with respect to wife battering in criminal justice policies. Surprisingly, a number of policies in the sample discussed women's experiences of abuse in detail. Some texts, for instance, indicated that women must make difficult and complex decisions when deciding whether or not to leave the relationship. Furthermore, the findings from this study suggest that some policies incorporated discourses which recognize the limits of utilizing the criminal justice system as a tool to prevent wife battering. It was indicated that the justice system cannot change public attitudes and in turn cannot effectively eliminate wife battering. Moreover, the justice system was criticized for causing additional trauma to women who are battered. For instance, at least four provinces and territories recognized that secondary victimization may be caused when a woman is forced to testify against her partner or when she is charged for failing to fulfill her duties as a witness.

Also, it appears that feminist discourses had an impact upon the types of services that are available to meet the needs of women who are battered. Many of these services address women's need for information, protection, counselling and housing.

A further examination of the data revealed that a number of contradictions in the

policies function to empower law and to marginalize some feminist discourses. The criminal justice system, in general, has not taken a gender-based approach with respect to wife battering. Women's experiences and women's demands continue to be downplayed in criminal justice policy and practice. Although it is noteworthy that feminist discourses are employed to describe the roots and the dynamics of wife battering, legal discourse in criminal justice policies tends to inform the protocols for justice agents. As such, the justice process retains its law and order approach to wife battering.

In summary, then, feminism should continue to engage with law in order to make visible women experiences, needs and concerns. As the findings from this study indicate, feminism has the potential to redefine the truth of events. Thus, feminist strategy should focus on challenging law's power to define and disqualify in order to improve conditions for women. Furthermore, as Smart (1989) suggests, feminism must continue to demonstrate its ability to redefine male violence against women in an area which has traditionally marginalized women's experiences.

While the findings in this study are important, a number of questions remain unanswered. There are several areas which call for more research. Firstly, to test the influence of feminist and non-feminist perspectives, the policy-making process must be studied in detail, and the groups and individuals who had an impact upon policy formation in each province and territory should be analysed and documented. It may also reveal which groups were more successful in voicing their concerns and demands. Secondly, a more detailed examination of the impact of various feminist discourses in each province or territory must be undertaken. This data may show which provinces or territories are

more amenable to incorporating certain lines of feminist thought. Similarly, research should be completed to explore why feminist discourses were not given comparable coverage in provincial and territorial justice policies published in similar time periods. Fourthly, the impact of both gender-neutral policy guidelines and policies informed by feminist discourse on justice officials should be explored. This data may assist researchers in determining factors which influence justice personnel's decision-making. Finally, research should be undertaken to explore what feminist protocols and solutions would resemble. It would be important to visualize how women-centred principles would operate within the criminal justice system.

ANNEX

Secondary Trends in the Data

For the purposes of this study, secondary trends refer to themes which emerged from the data that are relevant but only indirectly related to the hypotheses. An analysis of the data in this study reveals that there are at least two secondary trends worthy of notation. These trends include: (1) offering effective support for girls in teenage dating relationships and, (2) incorporating alternative discourses which focus on empowering communities.

As indicated in the manifest content analysis, there was some discussion of violence in teenage dating relationships in the texts. Unlike the directives issued to justice officials for adult relationships, educators are told they cannot control the situation. In fact, they are instructed not to tell the young woman what to do since this may alienate her and the opportunity to assist her may be lost. The emphasis is on offering effective support to the young woman to assist her in deciding to take control of her own life. This stands in sharp contrast to justice policies which suggest that the woman must be told that she does not control the process and that she has no choice but to carry through with the charges.

Secondly, it seems that alternative discourses which support healing the community and community-based justice were incorporated into policies published in the North West Territories. In particular, basic characteristics of community wellness were emphasized. In these policies, community wellness was defined as a strong sense of community and of family life based on mutual respect and an emphasis on personal dignity.

Furthermore, this strategy embraces a holistic approach which empowers the community and calls for people to take ownership and responsibility for their own actions. For instance, it was suggested that:

In order to move toward the restoration of community well-being, it is essential that communities start taking back responsibility for the services that are most important to them and that the communities themselves be empowered to set the pace and conditions of these important changes (NWT, 1993, p.20).

Unfortunately, like the somewhat superficial incorporation of feminist discourses, it seems that community involvement in sentencing and the justice process is only symbolic in nature. Various statements suggest that community members will be empowered by increasing their participation in the justice system. By including community members in some sentencing decisions and increasing the number of community members who sit as justices of the peace, it is thought that the community will be empowered. Community-based justice, then, appears to extend the current system rather than empower native communities through the revival of traditional native practices.

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APPENDICESAPPENDIX A

List of Policies

ALBERTA (1997) Alberta Justice Domestic Violence Initiatives, Edmonton AB: Alberta Justice.

BRITISH COLUMBIA (1996) Policy on the Criminal Justice System Response to Violence Against Women and Children, Victoria BC: Dept. Of Attorney General.

MANITOBA (1995) Criminal Justice Policy on Domestic Violence, Winnipeg MB: Manitoba Justice and Manitoba Women's Directorate.

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APPENDIX B

Coding Sheet

Manifest Content Analysis

Manifest Coding Rules

- 1) The pages which make reference to violence against women in intimate relationships are coded as part of the total page coverage
 - 2) Discussion of analyses of wife battering throughout the policy as well as in the appendices and footnotes/endnotes are coded as part of the total page coverage
 - 3) Lists of phone numbers, list of local referral agencies as well as bibliographies are not considered to represent analyses of wife battering
 - 4) Feminist analyses of wife battering includes discussions of the root causes, relationship dynamics and consequences of wife battering as well as critiques of the justice system and discussion which appeared to be influenced by feminist thought
 - 5a) Non-feminist analyses of wife battering includes discussions influenced by mainstream psychological and/or sociological perspectives on wife battering.
 - 5b) Gender neutral definitions of wife battering were coded as part of a non-feminist analysis
-
1. Policy- Province, Title, Department(s) which produced the publication, Date of Publication
 2. Total number of pages covered
 3. Level of page coverage which reflects analyses of wife battering.
 4. Level of page coverage which reflects feminist analyses of wife battering (includes feminist analyses and feminist critiques of male violence against women in intimate relationships).
 5. Level of page coverage which reflects analyses of wife battering which lack a gender analysis (notably mainstream psychological and sociological perspectives).

APPENDIX C

Coding Sheet

Latent Content Analysis

1. Policy- Province, Title, Department(s) which produced the publication, Date of Publication

2. Total number of pages covered

Measurement of Feminist and Non-Feminist Discourses on
Wife Battering in Criminal Justice Policy

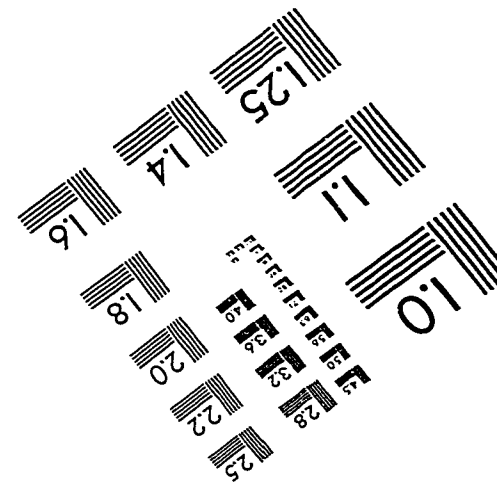
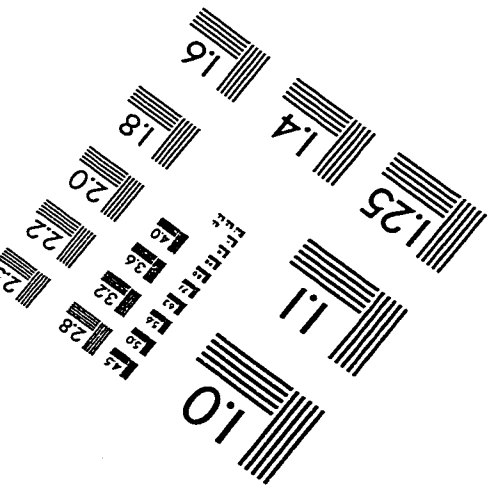
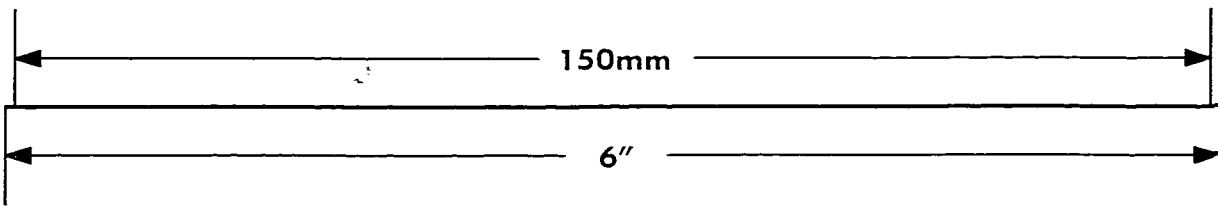
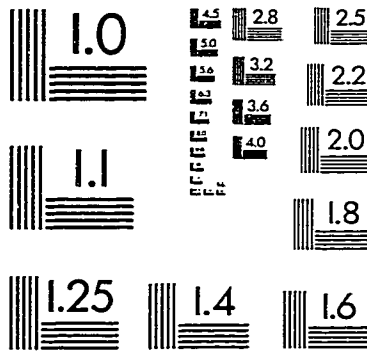
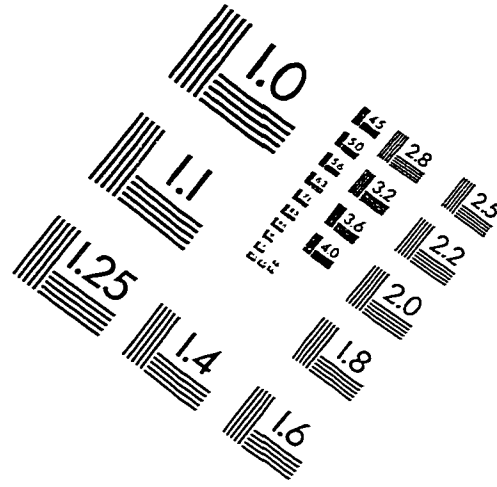
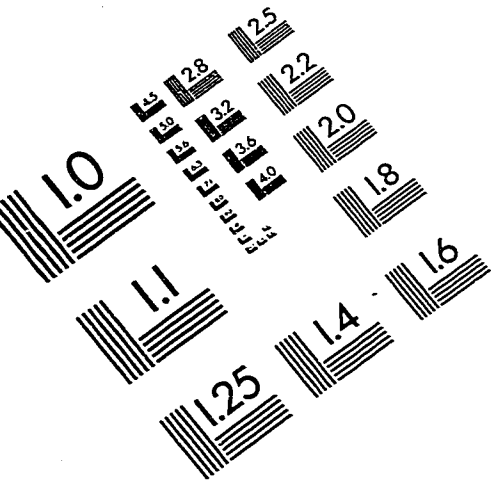
1. A statement will be coded as a representation of discourse which empowers law if it can be categorized into the following thematic division:

- Discussion that disqualifies women's experiences or disempowers women
- Discussion of the potential of law to resolve social problems
- Discussion that calls for more law and order or a stricter application of punitive measures endemic to the criminal justice system
- Discussion that suggest the importance of meeting the needs of the criminal justice system

2. A statement will be coded as a representation of discourse which empowers feminism if it can be categorized into the following thematic division:

- Discussion that validates women's experiences or empowers women
- Discussion of the limitations of law to resolve social problems
- Discussion that calls for social structural change including economic, political and social transformation to end the subordination of women to men (or which suggest alternative approaches to traditional justice responses)
- Discussion which suggests the importance of meeting women's needs

IMAGE EVALUATION TEST TARGET (QA-3)



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