

SELF-REPRESENTATION IN THE FAMILY COURT: IS JUSTICE FOR ALL IN CANADA?

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ABSTRACT

Self-Representation in the Family Court: Is Justice for All in Canada?

Master of Social Work, 2019
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This research study examines the experience of self-represented litigants (SRLs) in family court and their challenges accessing justice. It focuses on barriers that women litigants experience in accessing justice and explores how the process of self-representation affects their health and finances. Despite the growing corpus of literature in recent years on the theme, few studies have been done from the social work perspective. Grounded in structural social work and anti-oppressive approaches, this qualitative research focuses on analyzing the stories of three women who are or have been SRLs in the family court. Data collected from one-on-one narrative interviews are utilized to analyze the issue from a social work perspective. Most current literature is concerned with the lack of legal aid in addressing the issue. Findings of this study are expected to facilitate deeper debates and influence policy change.

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DEDICATION

For five key people who influenced my personal growth at different times in my life:

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CHAPTER 1: INTRODUCTION

Access to justice is a human basic right and is generally understood to be one of the main pillars of society. Within the construct of democracy, efficient laws are commonly considered to be a service that provides order, predictability, and stability to civil society, while shaping the rule of law (Trebilcock, Duggan, & Sossin, 2012; Zariski, 2014). Citizens in free and democratic societies expect that the state has an obligation to provide equal rights and equal access to justice for all its citizens. According to Jüriloo (2015), access to justice has been “universally recognized as a fundamental human right” (p. 203). This basic right, however, is not accessible for most Canadians who have legal issues and require legal assistance to remedy their issues through the litigation process. In this light, the purpose of this major research paper (MRP), titled *Self-Representation in the Family Court: Is Justice for All in Canada?* is to examine and bring to light how this issue affects women in Family Court (FC). Within this broader topic, the focus of the research is to dive deeper into the barriers women face when accessing justice, the impact on women’s health—and the distress—caused by the Self Representation (SR) process in FC, and how the lack of access to proper legal representation affects vulnerable women within the FC system.

Current literature focused on this topic indicates that there is a growing number of SRL cases in FC and this is a concern for many stakeholders working with this population. Studies have pointed out that this phenomenon is not unique to the Canadian justice system (CJS). In other Western countries where the rule of law is considered the cornerstone of the justice system, and particularly within the context of FC, similar issues have arisen. The so-called Rule of Law is defined as “the basic principle underlying western legal systems ... [which] in its usual sense implies the fulfilment of justice and the negation of government by and for the benefit of those in

charge” (Bloodworth, Coleman, Mendes, & Rock, 2013, p. 112). This concept also includes values and principles such as human rights, democratic values, peace, et cetera (Sellers & Tomaszewski, 2010). In short, the Rule of Law is at the heart of the CJS, giving authoritative power to judges to rule over what is deemed as “right and wrong” in society.

Individuals who represent their own legal cases in court are referred to as SRLs, pro-se litigants, do it yourself, et cetera. For this MRP, the term self-represented litigants (SRLs) will be utilized to refer to those who appear in court to present their own legal cases without the assistance of trained legal counsel (Bertrand, Paetsch, Bala, & Birnbaum, 2012). In our society, common knowledge dictates that everyone is equal under the law and entitled to the same legal rights and access to a fair trial. This concept is embedded in the Canadian constitution, under the *Charter of Rights and Freedoms*, Section 15(1): Equality Rights. The section states, “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination” (Canadian Charter of Rights and Freedoms, 1982). Current studies and statistics show a different trend than the one written in the Canadian constitution, which will be explored further in this MRP.

The ensuing chapters in this MRP detail the aforementioned research process intending to answer the study’s research question: What are the barriers SRLs women are facing in family court to access justice? Moving forward, Chapter 2 summarizes the relevant literature regarding SRLs in Canada and other countries facing the same or similar issues. Chapter 3 explains the theoretical framework which underlies this research. Chapter 4 explains the research design and methodology. Chapter 5 presents the combined original findings of narratives and discussion. Chapter 6 examines the implications of the findings, while linking them with existing literature and theories. Lastly, Chapter 7 provides a conclusion.

CHAPTER 2: LITERATURE REVIEW

The Canadian legal system—which emerged from the English Common Law system post-colonization—exists to carry out a fundamental set of principles and rules which are designed to settle disputes between individuals and groups, while also carrying the mandate of compensating those who have been victimized (Leckey, 2007). The Family law is a statute governing all family affairs; this law falls under the Canadian Common Law, and SR in family court cases are bound under the statutes of the common law (Maclean et al., 2011). The SRLs phenomenon has existed for a long time within the Western justice system. In recent decades, policy makers, scholars, and other stakeholders working within the CJS have expressed concerns about the increase in SRLs cases in family court. In attempting to answer the proposed questions that underlie the aforementioned study, this literature review summarizes the relevant research found in Canada and other Western countries facing the same issue in family courts. Furthermore, the literature is categorized into the following interrelated areas: a brief history of Canada's family law; the statistical landscape of SRLs; access to justice and barriers preventing access to justice; the health and economic effects on female SRLs within the family court system; feminization of poverty; the process of—and response to—SR in family court; and critiques of the literature.

A Brief History of the Development of Canadian Family Law

The Rule of Law is a fundamental principle in the CJS and is rooted in the English Common Law system (Da Costa, 1970; Thompson, 2003). In contemporary society, the family law system forms part of the civil code that deals with the private affairs of individuals. This system also draws some influence from French and Spanish law (Bala, 1987; Bloodworth et al., 2013; Young, 1994). Historically, according to Bala (1987), family affairs were not resolved in

civil court; instead, religious clerks resolved family issues. Even though the current laws have evolved since then, some historians believe that current family law still reflects Victorian laws with few changes since. For instance, the contemporary neoliberal state defines and dictates family laws, and women still face many challenges within this system (Eekelaar, 2018; Mossman 1994; Wright, 1999). In spite of this, family law is one of the cornerstones of Canadian society.

What we know today as family law in Canada shifted in 1960 when the federal government developed the Canada Assistance Plan (Bala, 1987). The creation of the Canada Assistance Plan included the implementation of overarching family policies, and by sharing costs with the provincial governments, this included both child protection and youth law (Bala, 1987; Dyck, 1976). Furthermore, in 1968, the Divorce Acts were established across Canada, and since this time, the Canadian Divorce Act and Canadian family law have evolved gradually to become the current system which reflects contemporary Canadian culture (Bala, 1987; Cotler, 2006). Family law is not static; this was designed with the intention of being adapted to the needs of the time (Young, 1994). Currently, less rigid divorce and separation laws (including no-fault divorce) have led to an increase in filing of divorce cases in the court systems, ultimately contributing to the present SRLs phenomenon (Kourlis, Taylor, Schepard, & Pruett, 2013). This trend is resulting in the increased poverty among women and children or those who are at a disadvantage in marriages due to the division of the household roles during the time when parties are together (Allen, 1998; Baker, 1988; Parkinson, 2016; Stevenson & Wolfers, 2007; Sultana, 2011).

Statistical Overview of SRLs in Canadian Family Courts

Within the literature review for this MRP, I have drawn data from both current Canadian studies and studies conducted in other Western countries. As this demonstrates, current laws

surrounding no-fault divorce in Canadian family law have increased the divorce rate at all socioeconomic levels of society (Allen, 1998; Stevenson & Wolfers, 2007). This trend has contributed to a noted increase in the number of SRLs in family courts (Kourlis et al., 2013). Drawing from Canadian statistics, the numbers represented in these studies depict an unfavourable landscape. For instance, Statistics Canada (June, 2016) reported that SRLs in family court cases have increased in the last 12 to 15 years. It was also estimated that in 2012, the number of family litigants representing themselves across the country ranged between 40% and 57% (Blishen, 2006). Other reports stated that these numbers are even greater in some courts ranging between 64%–70% (Statistics Canada: SRLs, June 2016). These numbers represent a much larger issue within family law and speak to the need for a change in the way family court cases are handled.

The Macfarlane (2013) *National Self-Represented Litigants Project* report illustrated an even more concerning picture about the SRLs issue. This indicated that in the previous 5 years of data collection, the estimated number of SRLs in civil and family court has been increasing, ranging from 50% to 80% in some jurisdictions. In Ontario alone, it revealed that about 75,000 new family cases are filed to the courts annually, and most of these who resolved their problems through the legal system felt the path through the justice system was unfair and costly (Semple & Rogerson, 2012). Similarly, Justice McLachlin's (2013) report estimated that in the three years following her report, about 40% of Canadian marriages would end in divorce. Most of these litigants lacked finances and had little knowledge about navigating the complexities of the court system.

Gorham (2014) and Boyd and Bertrand (2016) found that the percentage of SRLs in family court in Alberta was 68% or more, where one or both parties were lacking legal

representation. Included in this survey was a comparison of the views of judges and lawyers practising in Alberta (and the rest of Canada), all of whom expressed concerns with regard to the growing number of SRLs cases in family court. Scholars and other stakeholders from the United States, Great Britain, Australia, and other Western countries portray similar findings. For example, according to Greacen (2014) and Hilbert (2009), the U.S. court system has experienced an increase of SRLs in the last decades and found that many judges expressed this as a challenge for the system. Zorza (2009) illustrated more precise statistics of SRLs in California, stating that at the FC level, 67% of filed cases were self-represented, and that by the end of the cases, this number increased to 80%. This landscape is similar to the experience Canadian, Australian, and British family courts are facing (Caruana, 2002; Gibb, 2012; Moorhead, 2007). Ultimately, this statistic reflects the number of people struggling with an essential service that should be free for all, similar to health care, as Justice McLachlan's (2013) report stated.

Barriers to Access Justice

Many factors contribute to the ability of litigants to access justice in court. The term "access to justice" is broad and can be defined in different ways. For example, Zimmerman and Tyler (2010) expanded on the definition of access to justice and stated that among scholars, there was no consensus because they could not conclude the appropriateness of how much help to ask for. In this vein, access to justice is an umbrella term but broadly speaking (and for the purposes of this MRP) it refers to having the right to access fair legal counsel, the ability to resolve legal problems in a satisfactory manner without prejudice, and obtaining equal benefits before the law (Hughes, 2011; Sackville, 2004). For others, access to justice is related to the degree of accessing court facilities, judges' impartiality, courts' administrative assistance, ability to access these services, and the understanding of court language and procedures (Vickrey, Dunn, & Kelso,

2009). Scholars continue to disagree on this definition; nevertheless, barriers to accessing justice will be highlighted throughout the next section of this literature review as a central theme in answering the research question posed earlier.

According to McLachlin's (2013) report, Canada's family justice system is in crisis. Multiple causes have been attributed to this crisis, such as the structural barriers that play a significant role in preventing individuals from accessing meaningful justice (Pastore, 2009). These barriers include the high cost of retaining lawyers and the lack of accessibility and transparency of information. Other barriers affecting SRLs include complex systemic procedures, the lack of dissemination of information about the system operates (such as where to access court procedures, filling out court forms, or filing other essential papers) and a lack of understanding of "mental illness" (Kritzer, 1997; McLachlin, 2008; Salem & Saini, 2017). All of these factors have been linked by authors in this field to clients missing information, resulting in many clients being both unwell and unprepared for court cases. Another issue is the significant delay in processes, resulting in clients' time being wasted in court (Hilbert, 2009).

Key authors have identified multiple gatekeepers within the legal system, which bring with them the associated challenges of accessibility and systemic transparency. Examples include lawyers and administrators' attitudes, high court fees, and judges adopting the highly discretionary power of decision making (Barnett, 2017). In legal terms "discretionary power" means the amount of legal power judges are given to make decisions in a case; this can be a significant barrier to SRLs (Dobbin et al., 2007; Oleinnik, 2014). A particular problem has been noticed when a judge's discretionary power involves accepting certain pieces of evidence and dismissing others; these issues often serve as barriers leading to the discouragement of many clients from proceeding with taking potential cases to court (Oleinik, 2014). The negative

perception of some judges and other stakeholders towards SRLs contributes to the barriers SRLs encounter in the process of meeting legal needs and accessing justice (Bibas, 2009; Goh, 2018; Greacen, 2014). Furthermore, the scope of court programs such as duty counsel provides minimal services to few litigants and many cases are deemed as too complex or assistance is denied to those who are just above the cut-off for LA. This represents another challenge for SRLs at courts (Pearson, 1999).

It became evident throughout the course of this literature review that most of the time, it is people with fewer resources who are less likely to access justice, and among these are SRLs. For instance, Lewis, Chui, Kelly, and Cameron (2007); Tkacukova (2016), and Bertrand et al. (2012) argued that SRLs are at an even further disadvantage and face significant challenges in court procedures. What is left when the state fails to provide access to justice to all its citizens? Accordingly, Justice McLachlin (2013) pointed out that the service of accessing justice is not a commodity; instead, it is an essential service similar to health care or education. Moorhead and Pleasence (2003) stated that access to justice is different from access to *equal* justice. Ultimately, it can be argued that both go hand in hand, and one cannot go without the other to achieve full equal benefits of the rule of law (Hughes, 2011).

Another example illustrating the poor court services for SRLs is shared by both Dewar, Smith, and Banks (2000) and a *Court Watch Report* (West Coast Legal Education and Action Fund [WCLEAF], 2007) from BC that observed 44 SRLs court cases. Both reports painted a negative picture of SRLs resulting from limited access to court services and the poor procedural knowledge of litigants, ultimately putting them at an extreme disadvantage. In the first session of this report, 44 SRLs were observed for 6 months, and it was found that language and accessibility barriers were the greatest issue faced by these litigants. In the second session, of the

500 litigants' cases observed, 61% of participants presented language difficulties, while only 23% had access to translation (WCLEAF, 2007). Meadows (2014) underscored this idea when indicating that access to justice is restricted for financially disadvantaged people. In this regard, justice is not accessible for all, resulting in the increasing marginalization of poor people. It is evident throughout this literature review that access to justice is a luxury and not a basic right. Many gatekeepers are preventing disadvantaged people from accessing proper justice in the current FJS (Dobbin et al., 2007).

Lack of Legal Aid

Another important issue to consider within the context of barriers to accessing justice is the current legal aid cut-off rules. Legal Aid (LA) operates under a highly politicized context and as such, cuts to these services are justifiable in a neoliberal society based on the idea of the privatization of responsibility; thus, citizens experiencing familial legal issues are not the priority of the FJS (Ilcan, 2009; Mant, 2017). Given this, people affected by familial legal issues who live under poverty are the most affected by LA cut-off rules, forcing them to represent themselves (Bevan, 2013). Most SRLs are not able to access LA because they are marginally above the eligibility cut-off, or LA rules are just too restrictive.

LA was initially created with the intention of providing help to all in need of resolving legal problems through the adversary process, thus allowing all people to access justice. Currently, Legal Aid Ontario (LAO) cannot even provide help to those with low-income. For instance, Semple (2017) argued that for LA, family law is not their priority, as the 2016 national Canadian family lawyers' report stated that 81.6% of their clients did not have LA or access to it. In addition, for those who are able to obtain an LA certificate, it is assumed that this will allow them to have the full benefit of access to justice by being able to retain legal counsel (Currie,

2006). The LAO, mandated this service, gearing it to providing help to low-income individuals in accessing justice (Legal Aid Services Act, 1998). Many controversies exist around the debate in regard to whether LA is a right or not, with some arguing that family legal issues are complex, and it is the state's duty to provide LA to its citizens and more so to those in disadvantaged positions, while others argue the opposite (Jüriloo, 2015; Mossman, 1985).

Failing to provide these essential services contributes to interference with proper access to justice in civil or criminal court, which is a right for citizens according to the Charter of Rights and Freedoms (Choudhry & Herring, 2017). Similarly, this failure prevents the fulfilment of the Rule of Law, another obstruction of the Canadian Charter of Rights and Freedoms (Cohen & Bayefsky, 1983; Giobbe, 1999). In the constitution, section 15 (1), it is stated, "everyone is equal under the law and has the right to a fair trial." These authors argue that the provision of LA is imperative to those unable to afford legal counsel. The retrenching of the government from providing substantial money to LA has also affected the current position of LAO, and this contradicts the position of the Charter of Rights and Freedoms. For instance, Mossman, Schucher, and Schmeing (2010) stated that LAO has adopted a targeted service agenda by providing limited LA and restricted policies for eligibility of this service. These restrictions create more SRLs and, subsequently, more imbalance in courtrooms.

In order to access justice, individuals must have the right services to represent their cases to the court in organized legal language; this is a requirement for citizens to access a fair trial (Flynn, Hodgson, McCulloch, & Naylor, 2016). The cuts to LA in many provinces are another setback for many Canadians, since they create more barriers in the access to justice. For instance, the *West Coast LEAF Family Law Project: Court Watch Report 2005-2006* (2007) highlighted government cuts to social services which pose a significant challenge to vulnerable groups,

arguing that “cuts to family law LA have a profoundly negative impact on women in British Columbia” (p. 3). Likewise, Sarophim (2010) and Blishen (2016) argued that these cuts have exacerbated the over representation of SRLs individuals in family court. Similar effects have been seen across Canada, compromising the life of the country’s most vulnerable people. Rhode (2004) illustrates the same effects of LA cuts in the United States in the last two decades, further highlighting the need for this to be examined legislatively.

Cuts to LA are a concerning fact, as these restrictions lead to the exclusion of those with low resources and people earning slightly above of the LA cut-off (Semple & Rogerson, 2012). Given the significant portion of individuals who fit into this category, these act as barriers to accessing LA and other similar community programs. The current cut-off of income for single litigants is \$21,438 and the highest for a family of five is \$50,803 (Birnbaum & Bala, 2012; Rhode, 2004). In most cases, these resources are primarily provided only for cases of domestic violence and in some jurisdictions, there is no LA assistance whatsoever, creating extreme disparity among jurisdictions (The Canadian Bar Association Report, 2016; Legal Aid Ontario, 2016). There are a range of other family legal issues for which LAO provides no aid, such as spousal support and divorce. Cuts to LA are problematic as, in most cases, disadvantaged women are the most affected by these restrictions, which trickles down to impact Canada’s most marginalized and vulnerable families (Brewin & Govender, 2010).

Self-representation in family courts is not a choice, it is a desperate cry from those attempting to reach for some justice to ameliorate and resolve their family legal differences. A report from Ontario called *Listening to Ontarians* (Sossin, 2010) focused on low and middle-class people with the goal of understanding their civil legal needs. This study found that one-third of Ontarians presented with unmet legal needs, and more than 70% of middle- and low-

income Ontarians faced unmet legal needs. Dewar et al. (2000) highlighted a common theme within Ontario of unmet civil legal needs, including difficulties obtaining LA, high cost for legal assistance, and a lack of adequate services providing help for legal needs overall. Similarly, Greacen (2014) illustrates the picture of SRLs in the United States, where LA only provides services to 20% of the cases with legal needs and the majority of the programs excluded family cases, echoing the issues of the Canadian system. These statistics speak to the serious issue of accessing justice for the majority of people having legal family issues.

In response to the inaccessibility of justice in Canada, Justice McLachlin, quoted in a *Toronto Star* article, argued that “access to justice is a basic right for all Canadians, like education or health care” (Tyler, 2007, p. 1). In keeping the rule of law in a democracy, one of the state’s duties is to provide people with meaningful access to justice by ensuring free LA to those who cannot afford it (The Canadian Bar Association, 2016). This view contradicts the current reality of the justice system and the LA landscape in Canada, given the barriers identified here which prevent Canadians from equitable access to legal services.

Process of SR in Family Court and Its Effects on Health

The task of representing oneself in the litigation process is complex, frightening, and for most individuals involved, it has adverse emotional, mental, physical and financial consequences (Bordell & Robins, 2018; Macfarlane, Gill, & Thompson, 2017). Similarly, Coumarelos et al. (2012) argued that in general, legal problems most often have significant negative effects on people’s lives, especially in regard to health and loss of income—accounting for the greatest of these problems in family legal issues. Marriage breakdown already puts most women at a financial disadvantage, creating adverse ramifications on their health, and these results are often complicated by the loss of health insurance (Bourreau-Dubois & Doriat-Duban, 2016). The lack

of access to justice, in order to address legal issues, further contributes to the poor overall health of women (Farrow, et al., 2016; Lavelle & Smock, 2012; Macfarlane, 2018).

Furthermore, mental health as a result of distress and economic disparity among SRLs can affect decision-making (Lavalle, Lorenz, & Wickrama, 2012). The emotional suffering of having broken families can also represent a challenge for SRLs (Macfarlane, 2013). Just the pressure of the court process in many cases negatively affects litigants' overall health (Meadows, MacLanahan, & Brooks-Gunn, 2008). Studies done on the effects of decision-making under stress noted that making decisions in stressful situations could lead to a dysfunctional mind that focuses on one option while ignoring other possibilities, and this was more prevalent in women (Feenan, 2017; Starcke, Brand, & Kluge, 2016). Standing in front of a judge and participating in court settlement are stressful situations, and any decision taken under these circumstances are crucial for litigants. Limited time is given for these processes, putting participants in a more vulnerable position. This is particularly heightened for SRLs women who have no legal support to make informed decisions (Miller, Flores, & Pitcher, 2010). Decision-making in courtrooms is one of the most crucial experiences litigants may face in life and the choices made have long lasting or permanent impacts (Shepard, 2010).

Indeed, stressful situations and extreme emotions are pressing concerns for litigants involved in family court cases, greatly affecting the outcomes of SRLs, but these are not considered in courtrooms (Coumarelos, Pleasence, & Wai, 2013). Feenan (2017) argued that if compassion were incorporated into the law, it could be a useful tool for lawyers and judges to make decisions in the best interest of the legal rights of litigants. This would reduce litigant distress associated with courtroom procedures. Furthermore, many judges are dissatisfied with the SRLs issue and view it as inherently negative, believing it is detrimental to the traditional

process of the justice system; this is a significant factor interfering with the outcome of many cases. For example, Moorhead (2007) and Zorza (2009) argue that SRLs are upsetting traditional courtroom procedures, and in many cases, judges are not willing to be flexible when dealing with SRLs. Similar comments are also reinforced by lawyers. For instance, Feldstein (2016) stated that “the family court system was built on the assumption that parties will have a lawyer” (as cited in Goh, 2018, p. 2). However, this does not indicate a rule or legislation in place that mandates legal counsel for all parties involved in legal matters. Chui, Kelly, & Cameron (2007) stated that for judges and lawyers, SRLs are a threat to court process due to their ill prepared cases. However, since there is no law requiring litigants to have legal counsel to file a case, the SRLs will continue.

Feminization of Poverty

The SRLs issue increases the feminization of poverty. Income disparity between genders and the lack of consistency in the application of family law, especially in marriage breakdown, leave women at a significant disadvantage (Sev’er, 1992). Mossman and MacLean (1986) argued that with the increase of no-fault divorce, and despite the policy of gender equality assuming that both parties will be at an equal financial level after separation or divorce, the reality is that most often women have cut careers to take care of their families. Baker and Albanese (2009), Northrop (1990), and Bergmann (1981) stated that FJS policies include inherent misconceptions that men and women have equal opportunities when it comes to labour-markets and tend to ignore all the barriers women face, such as time devoted to caring for family, gender roles during marriage, limited job skills, age, et cetera. These factors increase women’s disadvantage upon marriage dissolution, and in the case of SRLs, exacerbate socioeconomic hardship.

Canada—along with most Western nations who have similar laws, including the Rule of

Law (Huff, 2014)—increasingly recognizes that the problems which exist in family courts are here to stay. Some countries have been adopting moderate policies to increase access to justice, including access to programs at courts sites, providing services to SRLs, and expanding the accessibility of LA (Choudhry & Herring, 2017; Mendleson, 2014; Palmer, 2011). Other measures being implemented are increasing national and international research that has been conducted on this subject, such as the e-justice system which is aimed at targeting public audiences (Lupo & Bailey, 2014). In addition, the ongoing National MacFarlane project has continued to collect the current information trends about the SRLs phenomenon nationwide, along with many other projects from different organizations. Despite these efforts, SRLs are not getting the right help to access justice in family court.

Critiques of the Literature

Although significant effort has been devoted to developing studies from law makers and other stakeholder on SRLs, which provided a multitude of recommendations regarding how the issue of SRLs should be addressed, few have been implemented. As an AOP social worker who is critiquing the existing literature regarding to SRLs, I recognized there is an absence of knowledge produced or analysis by the social work field on the SRLs issue. Even more concerning is that very few studies have incorporated voices with lived experiences of SRLs in family court. This is particularly worrying when the statistics show that, in CJS courts, the number of SRLs cases ranges from 60% to 85%, and 86% of these people have sought some form of legal advice but end up as SRLs anyway (Macfarlane, 2013; Paetsch & Boyd, 2014).

Similar statistics from other countries have noticed that the issue of SRLs is concerning, indicating that access to justice is a serious systemic problem in many Western countries. As observed previously, SR in family court is a systemic issue that is rooted in a patriarchal and

hierarchical institution. Thus far, not much has been written on this issue from this particular lens. One notable exception is Healey (2005), who alludes to the need for social workers to be familiar with the legal system and the importance of access to justice to provide better service for vulnerable clients. In this analysis, most of the writing about access or inaccessibility to justice on SRLs has been done from the legal perspective and, as such, poses the question of how can “the master’s tools ... dismantle the master’s house” (Howard, 2010, p. 1; Brown, 2012). From this perspective, one must ask how to bring about changes in the FJS when lawyers and judges mostly control the language and narrative within this system. This leaves the rest of Canadians outside the reach of the law, alienating most people from this essential service. Even though FJS is considered one of the main pillars of the Canadian society, I noticed in this literature review very little has been said about proposing the de-privatization of law. Having an unaffordable FJS leads to the lack of remedies for family legal issues and for family abuse to prevail.

To conclude, most of the literature found for this study lacked an analysis that included a proposal for a public FJS, particularly given the complexity of the system and the degree to which the laws are unreachable for the majority of Canadians. Most studies also missed the great opportunity to encourage strong policies that move FJS away from the traditional Victorian laws that keeps many women in disadvantaged conditions. Since the CFJS have been constructed within a very rigid system, which works to maintain the old patriarchal structure while reproducing its effects, this entrenches marginalized groups in deeper poverty. This is the literature gathered to answer the question guiding this research: What are the barriers SRL women face in family court to access justice?

CHAPTER 3. THEORETICAL FRAMEWORK

This chapter outlines the theoretical frameworks which guide this MRP: Structural Social Work and Anti-Oppressive Practice.

My Positionality

Post-modernist paradigms believe that research is never value-free, and that researchers always influence the outcomes of their research (Neuman, 2006). Researchers' influence on their research is a valuable concept in critical social work, and self-reflection is a key concept as well. Heron (2005) emphasizes the importance of self-reflection and positioning ourselves in our work. Fook (2002) acknowledges the importance of an author's positionality in research as "the idea of positionality—being able to assume a reflexive stance, simultaneously outside and within contexts" (p. 143). This recognizes social location is a critical aspect in social work practice, allowing researchers to view and reflect upon an issue from different perspectives.

In terms of my positionality, I am a racialized heterosexual woman, for whom English is a second language. I am a single mother with student debt. I married a white Canadian and I am currently separated. I was educated within the Western education system and am a Canadian citizen. In terms of birth position, I am the sixth of 10 children. My place in the issue being studied is that of an insider. I spent 4 years representing myself in a family case dispute, and my case is ongoing. All of these combined experiences contribute to my identity and how I approach this research. As an insider, I felt this research was not just a daunting task, but also very emotional work. This was the result of the closeness to my paralysing experiences in family court as an SRL, which meant I strongly identified with the three participants in this study. I also have done extensive research about family law, dismissing three lawyers for neglecting my case, searching for services, and receiving no duty counsel help. As a social worker, I felt it is my

responsibility to bring this issue to light and to advocate for those who are in the same position as I have been.

Structural Social Work Framework

Structural social work falls under the umbrella of critical theoretical approaches. These are committed to social justice, interrogating socially constructed knowledge, privileged practices and connecting research with issues of oppression which impact marginalized populations (Payne, 2014; Potts & Brown, 2015). Understanding the issue of SRLs within the context of the FJS also requires an understanding of the theoretical framework that explains this phenomenon. I have found structural social work to be one of the lenses that provides a strong foundation from which to examine the issues of SRLs. Mullaly (1997) stated that the term “structural social work” was first adopted by Middlemen and Goldberg, both of whom were attempting to describe their position as social workers. This perspective advocates for restructuring the system and is concerned with systemic oppression. For instance, Mullaly (1997) stated that:

[it] views various forms of oppression as intercepting with each other at numerous points, creating a total system of oppression. ... The term “structural” is descriptive of the problems that confront in that they are an inherent, build-in part of our present social order. Our social institutions function in such a way that they discriminate against people along lines of class, gender, race, sexual orientation, disability, and so on. (pp. 104-105).

The main goal of this approach is to challenge the existing social structures and place less focus on pathologizing individuals. Lundy (2004) refers to the focus of the structural social work lens as “[improving] the quality of the relationship between people and their social environment by changing social structures that limit human functioning and exacerbate human suffering” (p. 57). Structural social work recognizes that changes to improve marginalized people’s lives must occur at the structural level.

Various perspectives have influenced the structural social work framework, including

postmodernism, critical Marxism, feminism, and other theories that challenge the status quo in society and oppose the social order (Hick, Peters, Corner, & London 2010). These are committed to making changes at the systemic level. According to Mullaly (1997), Evans, (2004), and Elias (1994) critical theory views society as in a crisis, with a great division of power between those who have, and those who “have-not.” In this domination, the poor and the needy thus have few choices. Although this theory has been criticized, the main focus is the struggle of classes (Litowitz, 2000). There are similar to the SRLs’ struggles.

In critical approaches, systemic oppression is the result of the alienation of people from each other within society (Horton, 1966). The root of marginalization lies at the heart of the state, embedded in structural institutions and is supported by the same state (Milios, 2000). Here, inequality is pervasive, and is the driving force supporting the reproduction of systemic oppression, resulting in emotional, physical, psychological and political marginalization. The aforementioned issues are all present for SRLs, with some of the literature describing them as undeserving people who have no right to seek justice. They are also seen as “vexed” people who trespass against the law and bring chaos to court as destroying the JS, and at same the time, threaten the livelihood of family lawyers (Greacen, 2014; Netolitzky, 2018; Tkacukova, 2016; Zorza, 2009). Shepard (2010) stated that a courtroom “is not a place for the faint of heart” (p. 607). In the context of SRLs, litigants are subjected to the unjust FJS—rules that are governed by a colonial ideology, and a system that sets wealthy people at the top. Members of this group are the ones who are thus allowed to have the full rights and benefits to access to justice.

This theory also has a long-standing alliance with feminist approaches. Payne (2014) argued that social feminists seek to improve gender equality. Addressing this problem requires changing societal assumptions of gender, by advocating for legislation that promotes gender

equality. Oppression of women is rooted in inequality and class. This intersectional issue considers the structures of patriarchy, race, ability, disability, sexual orientation, age, and so on (Hick et al., 2010).

Lastly, radical feminism has a strong influence on structural social work by challenging men's position in society, criticizing the patriarchal roots which set men in a higher position in society, wherewith men are given power and privileges that women cannot attain (Payne, 2014). In this approach, women's freedom will only be attained by "calling out men as the agents of women's domination" (Einspahr, 2010, p. 2). Unfortunately, patriarchy is still a strong and domineering force; its oppression is mediated through social structures. It is a socially constructed phenomenon shaped by structural practices inherent in institutions (Einspahr, 2010). The focus of this approach is to identify and dismantle the patriarchal system, expecting this will set women free from their patriarchal domination. For feminists, freedom and domination must be examined together—they go hand in hand. Even though the FJS has changed, the overarching hierarchy is still male dominated (Becker, 1999; Mossman & MacLean, 1986; Parkinson, 2016).

As previously mentioned, the goal of structural social work is to change social systems structures. Bowen (2012) states that the main concern of structural social work is "with the ways in which the rich and powerful in society define and constrain the poor and the less powerful" (p. 4). This view opposes the ideology that operates within the structure of social institutions. Similarly, Healy (2005) and Moreau (1990) argued that power and control are exercised and maintained by the elite over marginalized groups. As such, the structural social work approach fits the purpose of this research study since it recognizes how social systems reproduce the feminization of poverty and inequality of women. Noteworthy to remember that this is also a historical struggle for women (George & Marlowe, 2005). This has created asymmetric power

between men and women, ultimately reflected in the larger social systems at play.

Anti-Oppressive Perspective

Anti-oppressive practice (AOP) is the second theoretical framework which I found to fit this research study. This perspective first emerged and developed as a critical perspective during the 1980s in England and was employed to address social inequality between clients and service providers (Healy, 2005; Wilson & Beresford, 2000). Diversity was another issue that emerged at the time, and the AOP perspective aimed to address and reduce the unequal power dynamics that often emerged between clients and social workers (Hutchinson, 2015). This perspective is an umbrella term for critical social work theories aiming to ameliorate social injustice and the evolving social conditions affecting people's lives at the time (Baines, 2007). Rationality within the AOP perspective is a salient quality for selecting this approach for this research study, as it is focused on changing or improving the structural dimension of service delivery to clients from professionals via the micro-systemic, the macro-political, the legal level, and mezzo level (Beresford & Croft, 2004; Strier & Binyamin, 2014). Furthermore, AOP addresses a range of social issues embedded in the structure of social systems that are viewed as the source of oppression and marginalization of people and communities. Among these are social change, highlighting the structural origin of service users' problems, and reflecting on one's own professional practices (Hutchison, 2015). AOP's goal is to provide clients with the tools to overcome social and structural barriers to manage their problems (Payne, 2014).

Healy (2005) states that social workers' jobs are already closely involved with the law, and also reminds us about the areas of law in which social workers can contribute, such as "research and advocacy about the inadequacies of current laws in protecting groups of vulnerable people ... [and] working in policy and legislation particularly in human services agencies" (p.

39). As an AOP social worker, I bring this epistemology into this major research project in order to create an alternative perspective on the issue of SRLs. Absolon (2011) stated that our worldview grounds our research in process, motive, purpose, and roles. In this vein, I am aiming to create a new discussion that challenges the current epistemology which positions SRLs negatively. Critical AOP is linked to its commitment to social justice through the interrogation of the socially constructed and privileged knowledge and legal discourses by connecting research with these issues of oppression (Absolon, 2011).

The Fusion of Structural Social Work and Anti-Oppressive Practice

The two theories chosen for this research have a great affinity with the experience and barriers SRLs face as they navigate the family court system. For instance, Carniol (1990) argued that the end goal of the structural social work perspective is to restructure the current social system into one that is fairer and equal for all, more accountable to the public, and less controlled by the few in the dominant, elite class. Similarly, Payne (2014) outlines the goals of AOP are to promote empowerment to clients and seeks clients' involvement in decision making concerning their issues by providing them with a range of available resources. This approach recognizes that clients are not empty vessels but are cognizant of their rights as citizens to make informed choices in their assessments (Mullaly, 2002). In short, both theories have many strengths and views that align with the end goal of this research of starting a sound debate to change the rigid policies governing the FJS and empowering SRLs to bring their voices to light.

CHAPTER 4: METHODOLOGY

Based on the body of literature found, the question designed to guide this research is: What are the barriers SRL women face in family court to access justice? This question was selected in order to bring some light to the multiple barriers SRL women face as they navigate the SR process in the family court. Delving into this question, the goal of this research is to help understand the difficult realities of the SR process, to shed light on the bureaucracy of the legal system, to discuss the lived experiences of women who navigate the system alone without legal assistance, an oppressive system which represents a threat for vulnerable women. In addition, this question is trying to bring to light the assumptions of many in the legal system who view SRLs as undeserving people and portray them as having no right to seek justice.

Research Design

Research design is a central tenet of any research study. According to Flick (2007), the research design “is a plan for collecting and analysing evidence that will make it possible for the investigator to answer whatever questions he or she has posed” (p. 2). The design of a study is related to all aspects of the research, beginning from the smallest details of data collection along with selection of which techniques are used for data analysis (Creswell, 2007). According to Faulkner and Faulkner (2014), “methodology is the research methods, procedures, and techniques used to collect and analyze information in a research” (p. 241). In this process, the researcher selects a specific type of design to follow as they conduct their study, step by step until its completion. This is an integral part of the research process whose results and interconnected parts give shape and form to the end result of the research. In this MRP, the foundation of my research design was qualitative in nature. Padgett (2008) provided the historical origin of qualitative research, explaining that this method emerged from sociology,

anthropology, and the humanities. Further, it is considered reliable, recognised by relying on information collected from interviews, observations, and discussions with participants who have lived experiences within the studied phenomenon (Faulkner & Faulkner, 2014).

Upon close examination of the various qualitative research methods, I found narrative research to fit this research topic best. Creswell (2014) argued that narrative research is a methodology utilized by researchers to deeply examine the lived experiences or stories of individuals and to gather the information from these narratives. Most importantly, narrative research methodology seeks to describe and analyze the lived experiences of the participants in depth (Creswell, 2007). Researchers have the flexibility to have a close interaction with participant's experiences, which also speaks to my positionality within this research. Further, narrative research according to Clandinin and Connelly (2000) is "a way of understanding experience ... concluding still in the midst of living and telling, reliving and retelling, the stories of experiences that make up people's lives, both individual and social" (p. 20).

The content of this MRP was ultimately analyzed through a narrative analysis of interviews as the research seeks to provide SRLs women with an opportunity to bring to light their lived experiences of self-representation in family court. This allows them to include the current challenges they faced in accessing justice, the tensions associated with the family court and the systemic oppression litigants face through the process. Interviews will also allow the researcher to gain insight into their experiences of the barriers and challenges they encountered within the family justice system during the self-presentation process. Collected narratives from participants, in conjunction with the two theoretical frameworks being utilized and the literature gathered were the central tools used to analyze the narratives shared in the interview phase of this research.

Recruitment and Sampling

The main goal of the recruitment phase of this research was to recruit participants based on their experience of SR in family court. In order to do so, I developed a media platform that was launched on a separate Facebook page, called the “Self-Representation Project” and different social work networks were used to share the recruitment information about the project. Interested participants were asked to use the contact information provided, and I encouraged them to share this page within their own networks. Some of the criteria for participants to be accepted into the projects were: self-identified women over 18 years of age, who had previous or current experience of self-representing in family court, and who had limited financial resources. Due to the short time frame of this research, three participants were selected for interviews. In qualitative, narrative research, small sample sizes are appropriate since this method seeks to have a deeper understanding of the participants’ personal stories (Creswell, 2014; Padgett, 2008). Nonetheless, the small sample size of this research does limit its scope and applicability.

Participants were recruited for this study via the nonprobability technique of purposive sampling and within this, I chose to utilize snowball sampling. Faulkner and Faulkner (2014) define this sampling method as “simply selecting a sample on the basis of one’s knowledge of a population” (p. 80). Due the nature of SRLs, I found this technique to be appropriate. Even though the number of SRLs in family court surpasses the number of non-self-represented litigants, it was not easy to access these participants. One of the consistent reasons I noticed was that SRLs can come from across a wide segment of society and it is difficult to find or locate them. According to Padgett (2008) and Heckathorn (1997), the snowball sampling method is used in cases where the population affected by the phenomena being studied is hidden and thus, by accessing a few of them, one can gain accessibility to other potential participants. Gaining access to most of the participants was accomplished by posting recruitment advertisement

material through social media, including Facebook and other social work networks.

Data Collection

A structured interview questionnaire with 11 open-ended questions, in conjunction with the consent form, was prepared prior to the start of the interview process. The interview guide was created based on (and informed by) the literature review embarked upon for this MRP and was reviewed by the Research Ethics Board. This material was then emailed to interested participants which allowed them to prepare ahead of time. At the time of the interview, participants were also given time to review the information again. The open-ended format of the questions was intended to give participants power and control over the amount of information they wanted to share as, according to Creswell (2014) in qualitative research, interviews involved “generally open-ended questions that are few in number and intended to elicit views and opinions from participants” (p. 190). The questions were appropriate for the purpose of this research and prepare participants before the interview.

Each interview conducted lasted from one to one and a half hours, the information was audio-recorded, and stored safely. All participants’ personal information is excluded throughout the research and from the final transcript. Numbers were used to replace personal names. These measures were undertaken in an effort to keep participants’ identities safe. All participants provided rich information about their cases, which was greatly appreciated. Additionally, relevant scholarly literature based on the topic of SRLs was collected through Ryerson library resources and has been analysed to support the presentation of findings in the final MRP report.

Data Analysis

Creswell (2013) argued that narrative analysis “refer(s) to a family of methods for interpreting texts that have in common a storied form. ... The data collected in a narrative study needs to be analysed for the story they have to tell, a chronology of unfolding events, and turning

points or epiphanies” (p. 189). There are different methods used to analyze narrative interview information. For this research purpose, a thematic analysis is used to understand and analyze the collected information and then organize the data into main themes in a chronological order. The steps taken was to listen many times to the recorded information to get familiar with the interviews prior to transcribing and then using naturalized verbatim method to complete the transcription process. I found this suitable for the interview transcription, as according to Azevedo et al. (2017) this method seeks to preserve the originality of the elements of the interviews.

After transcription, I read the notes gathered to identify major themes many times. The themes were indexed then analysed to make themes more concise. This method is also called case summarizing. According to Padgett (2008) case summaries are a heuristic way to organize the collected data from each interview. The advantage of this method is its utility and applicability to all qualitative approaches. Further, this approach includes using coding, with information being divided into main themes and then easy to represent the key features of each story (Nowell, Norris, White, & Moules, 2017). This method emphasizes the essence of the environment where the stories are situated (Vaismoradi, Turunen, & Bondas, 2013; Padgett, 2008). According to De Fina and Georgakopoulou (2008), a thematic analysis method observes the micro and mezzo, and considers the macro level of the system where the events take place.

Rationale for Adopting Narrative Method

Qualitative, narrative research gives researchers the flexibility to formulate creative questions to delve into a subject and control over time. Therefore, interviews generate a large body of data from participants’ real stories and provide researchers a great opportunity to engage in meaningful analysis based on the data of the gathered stories. This method focuses both on participants’ voices and original features of the stories while keeping it consistent with the

theoretical framework; researchers are thus able to understand stories that otherwise would not be possible to capture using a different method (Lee, Hunter, & Franken, 2013). It gives participants the space to share their opinions and feelings of their lived experiences. In short, it is easy to use thematic analysis, providing the researcher with a guide for data collection, analyze of data, and present a final report in concise manner (Nowell et al., 2017). Nevertheless, given the fluidity of the research process, this research is not free from methodological gaps.

Why I Chose This Topic

My primary interest in bringing the SRLs issue to light in this research was not just linked to my own personal experience with the issue. As a social worker, I have the duty to work for social justice to improve lives and to speak up for marginalized people in our society. Often, raising issues from different perspectives can bring about more debates which can, in turn, lead to policy change. Healy (2005) reminds us about the areas within the scope of the law where social workers can contribute; among these are “advocacy about the inadequacies of current laws for protecting groups of vulnerable people ... working in policy and legislation particularly in human services agencies” (p. 39). It is my interest as an AOP social worker and researcher to bring this knowledge into the study to create an alternative perspective within the issue of SRLs. As Absolon (2011) highlights, our worldview grounds the research in process, motive, purpose, and roles. In my MRP, I am committed to creating new knowledge to challenge the current positivist epistemology that guides discussions around the issue of SRLs in Canada.

CHAPTER 5: ANALYSIS OF THE NARRATIVE WITH SRL PARTICIPANTS

This section presents the combined findings of narratives and from interviews conducted with participants of their lived experiences as SRLs in family court and discusses them. I conducted three interviews with women who have self-represented (SR) in family court. All the cases were about child support and custody, however, one case also included divorce proceedings.

A brief account of these cases are as follows: the first participant never used a lawyer, except for the advice from the duty counsel at court. The second case used an LA lawyer for some time, but felt they were not reliable and so opted for SR, though at the end of the case, she sought legal advice again. The third case used some legal advice through her workplace to guide her court preparation, but she did the entire process alone. The three cases were unique in the circumstances that brought them to court, but they all had some commonalities. All of the participants were employed at the time their cases were filed, and they lacked financial resources to retain reliable legal counsel. However, all had the determination to pursue their cases, knew that their cases had merit, wanted to be heard by the family court, and wanted the FJS to function for them and their families. I considered the three participants to be smart, well-educated and interested in sharing their experiences of their process as self-represented litigants.

To protect participants' identities and privacy, throughout this analysis I have named them participant 1, participant 2, and participant 3. To bring out participants' voices, original quotes from their stories are used to analyze the relevant themes that emerged. These themes include: (a) reasons for SR, participants' concerns about the barriers to access justice, (b) the effect of the court process on participants' health, and (c) the participants' views about trial judges' behaviour. Lastly, participants' recommendations will be added at the end of this

chapter.

The narrative research method was a valuable tool in this study, since it allows the researcher to use questions to engage participants in deeper conversations. Similarly, the method provides a safe space for participants to share their stories, while obtaining rich data about their experiences. This was a key component to support the analysis and to answer the intended questions examined in this study. I also greatly appreciate the contribution of each participant in this sample for sharing their unique and valuable experiences which lend to the understanding of the effects SR in family court has had on their lives. The three narratives shared many similarities which are explained in the following analysis.

Theme 1: Reasons for Self-Representation

Poverty is an escalating issue among SRLs, and this creates pressure for these litigants to take the decisions to file their cases to court without legal representation. For most of those SRLs, this is not a choice, rather it is the only available option they had to access justice. Some studies have also reported similar observations in family court, and that SR is not what most SRLs would choose (Bertrand et al., 2012; Chui, Kelly, & Cameron, 2007; Tkacukova, 2016). The lack of financial resources was one of the pressing issues that dominated a significant part of the discussion in the question “why did you decide to self-represent?”. Most of the participants expressed their desire to have a reliable lawyer whom they would trust to make the process less stressful and perhaps have better outcomes. Although all the participants were working at the time filing their cases to court, they stated that legal counsel was too expensive for their budgets. For example, participant 1 shared her concerns regarding her financial condition at the time she filed her case at court and the reasons that led her to self-representation:

Yes, I self-represented in family court. ...I went to the court for first time in 2008, and this was just for access. I ...yeah, yeah... I could not afford a lawyer, had no money... I

didn't have any money, so I couldn't afford a lawyer. ... I went to court to ask for help and I was directed to a clerk, he helped me a lot... actually there was a particular guy and he was the one that basically said "yeah you can do this on your own," that one was very helpful. ... I always went back to him. I was studying and working at the time. I was told that I was making too much money to have legal aid, but it was not enough to pay for a lawyer. ... I did look into legal aid and they told me I was making too much money for a household of two. I was just above the cut-off for a household of two, but not enough to pay for a lawyer... this part of the justice system should improve. (Participant 1)

Despite the great need this participant had for a legal counsel to help her with the process, she could not pursue this avenue because she was facing poverty. Her income level did not allow her to afford a lawyer, a problem most SRLs face. This highlights the reality that it is not possible for many SRLs to spend an additional \$10,000 to afford a legal counsel. As Medows (2014) indicated, access to justice is restricted for financially disadvantaged people. The lack of money was a key factor that led this participant to inquire about how to access justice to resolve her family legal case by herself.

Similarly, participant 2 expressed the following in response to question 2, Why did you decide to self-represent in family court?

I had no money; it was very hard... Yes, the first reason... For me, obviously I didn't have the financial resources to pay for a lawyer. Lawyers charge you high fees... uhm... and a person like me, an immigrant, earning the minimum wage, would never be able to retain a lawyer who would represent your interest well in court. Yes, the economics was one of the biggest challenges I faced in this case. I attempted to retain a lawyer at the beginning of my case...umm...but it was impossible because they charge high fees and as I previously said, I was earning the minimum wage. Then because I was spending too much time in court, searching for family law information, or other court related issues, I lost my job. A legal aid lawyer was provided to me but it didn't work. Another reason I decided for self-representation was, for example I had spoken with various people I met in the court. ...Yes, many that have gone through the same process of self-representation, they have been guiding me...all cases are unique, but the same thing people said was "be prepared by informing yourself as much as you can, and be emotional prepared."...And the majority of these people/ I found out the major reason they were self-representing was because of economic reasons...and I thought that if they can do it...Why not me?...I can do it too.... I felt encouraged with this news, also I read that about 80% of the cases in family court are representing themselves...this was surprising for me. ... People are not happy with the system. (Participant 2)

This narrative closely resembles the account of the previous case. According to Semple

and Rogerson (2012), most people who attempted to resolve their issues through the justice system believed that the system was unfair and costly. Even though participant 2 received LA assistance, she explicitly stated that “it didn’t work for me.” Another important point the participant noted was how surprised she was at seeing the large number of SRLs in the court, which encouraged her to proceed with SR for her case. Indeed, the major issue for this participant was her lack of financial resources.

MacFarlane (2013) reported that in the 5 years preceding her study, many jurisdictions in Canada had seen a 50% to 80% increase in SRLs. Boyd and Bertrand (2016) noticed a similar trend specifically in Alberta, stating that the increase of SRLs in family court was 68% or more where one or both parties were lacking legal representation. Both studies and stressed the major reasons participants chose SR was lack of finances to afford legal representation. These are some of the examples illustrating the lack of financial resources people face when it comes to resolving issues via legal procedures. In this context, one can say the justice system is not equal for everyone, and its inability to provide equal access to justice for all people with family legal issues annul the values of the *Charter of Rights and Freedoms* Part II section 15(1) that preclude that “all citizens are equal under the law, have equal benefits under the law have equal right a fair trial” (Part II, Section 15.1).

Despite the obstacles participant 3 faced during the court case process, she maintained a positive attitude and showed self-confidence throughout the interview about her decision of SR. Her account of the question about why she decided to represent herself at the family court was:

First of all...I mean going through divorce and having family issues is not an easy aspect to deal with in your life. ‘I wanted to be in charge of my case, yes.... I also had some legal services through my work benefits, I found the lawyer’s fees were too high.... I was lucky because I had legal advice on the side through this time. So, I could use those services to talk to lawyers, but no lawyer...no person would take my case. This service was more for guidance, I said ok... I read the court manuals, I’m supposed to prepare

these documents and submitted to the court.... first of all...uhm... as I said, I found the rates for lawyers were too expensive and I was told...a friend of mine said ... the lawyer will charge you a lot of money and you will end up working with a clerk, she will be doing all the paper work and the lawyer just will read the material and then represent you at the court.” Lawyers are not very helpful... they look at you as another number. You know, they see you as another customer! So, when I initiated the process, I never anticipated my divorce it will be what it was. I started in 2007 and it lasted until 2010 and then we had to go back in 2015. It took a while and it was very hard on me. Yeah, I had legal benefit through my job that sometimes were helpful but other times were not. Also, what it helps me to decide to represent myself was my friend who already have done the same process before... She said, “You don’t need a lawyer, I have the books.”... And I said ‘if [my friend] could do it, I can do it too’... [] So, I felt encouraged [haha]. I was working... but I was not able to pay a lawyer too. Even I did not qualify for duty counsel, the thing they will ask you first is for your income and if you make this amount of money... they pretty much kick you out of that office... I was also good in technology ... I prepared my own case. (Participant 3)

Even though this participant wanted to be in charge of her case, she mentioned five other reasons influencing her decision about SR, including her lack of trust in lawyers, the high fees legal counsellors charge, the availability of legal advice on-site through her job, encouraging words from her friend, and her technological skills. Though she highlighted many of the reasons as to why she decided on SR, she recognized how difficult it was to deal with family issues while managing the court process. One salient concern among participants was the high legal fees. According to Barnett (2017), high legal fees serve as a gatekeeper, and in many cases deters people from resolving family legal problems at the court level. Nonetheless, this participant understood that she was dealing with a difficult case, but nothing deterred her from proceeding with her case at court level. This story reflected the reality of the other participants and many SRLs cases in the family court emphasized in some of the literature review found for this study.

Theme 2: Barriers Encountered to Access Justice

A second theme emerging from the participants’ discussions was the limited programs providing services for SR people. Participants emphasized how confusing the process was and having access to clear language as a guide to sort out the right documents to submit to court

would have greatly reduced their anxiety. Another key issue stressed in the stories was about the unnecessary use of the adversarial process in family cases. Instead of being helpful, it served as a barrier that impeded litigants' ability to perform. They said it instilled fear and anxiety which resulted in poor health conditions and poor court outcomes. The lack of FJS knowledge and its functioning in general was another significant barrier they faced. The significant amount of time they expended searching for information to learn about the court language and rules to prepare their cases was another crucial barrier for them. Lastly, participants were concerned about difficulties to access programs that could have helped as their cases progressed in court. Specifically, help to guide them in filling out applications or other paper required in the court process. Despite recognizing the challenges encountered during the court process, the three interviews presented a mixed reflection about the degree of challenges each faced during their legal processes.

Participant 1 described her court experience of SR as complex, but after getting help from the court clerk, it got easier. However, she acknowledged that at first, she was afraid of the process and had little knowledge about the FJS. In her words, she described her experience:

At the beginning, I just had a booklet, or I think it was a pamphlet with information about the court. I even didn't know that there was a duty counsel at court, until the clerk told me ...yeah, he said to me "you can go upstairs to see the duty counsel... So...yeah... it was very smooth from there on because my case was simple. But I remember, I always went for help to the same clerk, he was good, but I saw others were not so nice. My case was done in two parts, first was the visitations and then child support, yeah... long process. Serving papers to the other party was an issue. I was not informed about the different ways to serve the other party, but then the clerk told me. Another barrier I faced, it was with legal aid, I was not able to access because as I said before, at that time I was working and earn a little above the cut-off legal aid rule... No, I didn't do legal aid, I was making too much money to have the services but not enough to pay for a lawyer, I did look into this option, but they told me...I was making too much money for a household of two. I just was above the cut-off for a household of two.... I didn't find helpful programs outside the court, but the duty counsels were helpful to me and I got more information at the court... And read what was available at the time... Yeah... back then there was not much information, I think this part of the system should improve...I found

a lack of dissemination of information. (Participant 1)

Even though in this story the participant stated she had few resources, as a citizen she knew the need to exercise her values and proceeded with her case as an SRL. The LA cut-off policy played a significant factor in her case, as she was denied aid from this program because she earned a little above the cut-off LA rule. According to Semple (2017), family law is not the priority of LA, this indicated that regardless if they are single mothers, they are not able to retain a legal counsel. For her family legal issue, LA does not consider these cases worth their time.

In comparison, participant 2 had a significantly harsher experience. Participant 2 discussed the frustration about the inherent lack of programs at all levels she found to help her with her case. In her words, she recounted the unpleasant experience she went through during her SR process in Family court.

The court process was a challenge... I felt this was like another job that required my full attention 24hrs/7 days a week... For me, the self-representation process in family court was difficult, because... hum... I had to start from the beginning doing a lot of research to learn about how the family law functioned, the child support calculations... Then I tried to use the duty counsel program at court, but I found this provides little information, I couldn't have the full information or support I needed. The program is disorganized... They don't provide a clear guide about how to follow the process. Also, some community programs I visited have almost no help and when I left messages, they took a long time in returning calls... Similarly, legal aid was another challenge... At the beginning of my case I approached them, and I thought it was the best... I felt supported because at that moment, I had nothing and was a single mother... Uhm... I was studying and I was earning the minimum... I was given a LA certificate... But I didn't know what to do, or whom to call, I was told "you need to find a lawyer" But I was like, what can I do with this? ... But what does this mean! This is where the problem begins with LA, the system is dysfunctional... as a client, you don't know what to do with the LA certificate. They just provide a list of lawyers for me and told me to go online but there is no way how to know which lawyer is good or not... You don't know who can take your case and do it well. It felt like I was guessing, I had many interviews with different lawyers... Finally, I gave my case to one that convinced me, and he said he spoke Spanish (my first language is Spanish), then I noticed he knew almost nothing... Uhm, but I needed to start the case. Then he didn't even have time to meet with me and six months after he took my case, I asked him about the process and he said "Oh... these cases take time... because the court takes a lot of time in accepting the papers and because the father of your daughter is in the U.S, this is harder". I noticed that in reality LA lawyers don't function He

explained nothing to me about where my case was at, we were not agreeing in anything.... He sounded like he was more in favor of my Ex-husband than me. It was then I decided that he would no longer represent my case and decided to do the process by myself. Also LA lawyers treat you as if you are just like another number and want to do a quick solution. They just ask you 'give me this and if you don't give me this and the other, you are not welcome here and you are not good for me. Another challenge with LA is the cut off rules that limits the access for many people. The system gives no options to clients, there should be more flexibility... Both, legal aid and lawyers have empty promises. They think it is just enough or ok to assign a lawyer to a person to access justice, but it is more than that... Yes... Then LA programs for me has only empty promises... Yes... many barriers I faced during my court process. ... There is a lack of programs to access legal help for SRLs. (Participant 2)

As mentioned earlier, narrative analysis produces detailed information of the issue in question. This story clearly describes the frustration the participant has with the systemic failure in providing a meaningful legal assistance for people like her to access justice. Mossman et al. (2010) stated the current Legal Aid in Ontario target agenda adopted by the provincial government, which provides services for family cases, is limited to certain people. In addition, the current Ontario Government is cutting \$133 million to LA, equal to 30% of the already chronically underfunded services, worsening the access to justice for the most vulnerable people (Chaleff, n.d.). Six major barriers are identified in this case: the time she spent learning the family law system, unhelpful duty counsels, LA's restricted rules, limited resources, rigid rules to change counsels, and the lack of community programs to assist SRLs.

The narrative of participant 3 reflects many similarities with the previous stories, including the fear of the court process, lack of knowledge of the FJS, lack of finances to retain a private counsel, and inability to qualify for the duty counsel program at court. Even though this participant expressed confidence about her preparation for her court process, she acknowledged that the FJS and court is a complex process. Regardless of her preparation, it did not make her immune to the challenges SRLs face at court. Indeed, the complexity of family law was a concerning issue for this participant. Further, she stated the following "I wanted to be in control

of my case, because I had no trust in the lawyers.” Below she describes the challenges she went through during her court process:

At the beginning of my process, I knew nothing about the family law or the court process ...Nothing. In fact, I was separated a long time, I was always afraid to get into this mess. I thought this is going to be difficult for me and for my children. But when I decided, I took it from an academic perspective. So, my experience was more like... A research, I read all the guidelines that are on the Attorney General Websites, the family law rules, and they're all in the website. So, I did a lot of research... It is a challenging process. The duty counsel program was a bit of a challenge ...Uhm... but they will ask you first for your income...And if you make this amount of money ...They pretty much kick you out of that office...I didn't have that help! And it was regardless if I did have a small question or a major question, they didn't help me. They looked at me like 'why are you looking for help?' Well I said because the judge is asking me if I have seen the duty counsel and I said no then asked me to see you. The problem is that when you are SR and go to court, the first thing the judge asked you is 'have you seen the duty counsel?' And if you say no! Ok... they said, 'You should see the duty counsel' then you end up lining up and waiting for at least two hours. >Then you see the duty counsel and they kind kick you out<... Then, the next time I didn't go to see the duty counsel. I learned from the first experience...They are not there to help you... Yes ... I approached legal aid (LA) by mistake because duty counsels are part of LA. I thought it was part of the court process. If the judge tells me upstairs in the court room, you have to talk to the duty counsel, then I go to talk to them. But as I said before, the first question they ask you first is, how much do you earn...they do not even say hi to you...NO! Ok... They said, you shouldn't be here because you are making too much... (haha). That is how they act. I didn't apply to LA...No....No...Another difficulty I encountered was... I realized everything in the court is too slow and the system is old, and all the activities are manually done. (Participant 3)

This participant was displeased with the process. She made all efforts to understand the law by doing significant research in FJS. As her case moved forward, she gained confidence in her skills and became less afraid. Even though she followed all the court instructions and documented herself, she still faced barriers during the process. The factor disadvantaging her was that she was earning a little above the LA cut-off, no help was provided for her. Even the duty counsel was denied to her, and a lawyer was too expensive for her. These factors align with many of the studies found in the literature review that discussed the barriers SRLs faced in courtrooms.

Theme 3: The Effect of the Court Process on Participant's Health

Most of these litigants found that the hardships SRLs are exposed to in Family Court processes serve as another intimidating barrier to access justice. Family legal problems in most cases involve multi-layered issues including the suffering from family breakdown and livelihood. Since this is not an easy process, all participants expressed that at one point in their process, they felt scared, stressed, lonely, depressed, and faced different health problems resulting from the hardship of the process. It was evident that the FJS does not take into consideration the health issues litigants suffer during court proceedings (Coumarelos et al., 2013). Self-represented litigants fall ill from the stress associated with the process and the stress from knowing that their lives and the lives of their children are at risk. They are aware that any decisions in court have long lasting positive or negative impacts on their lives and those of their loved ones (Shepard, 2010). There is limited research on the impact of SR in family court on the health of this population. This was an integral part for me choosing this topic, and the succeeding paragraphs illustrate participants' answers to question 6 about "How did this experience affect you mentally? Emotionally? Psychologically? Your family, work, or otherwise?"

It is estimated that family legal issues heavily effect individuals' physical and mental health (Jenkins, 2017). Likewise, the response from participant 1 about how her mental health and physical health was affected due to the legal process is as follows.

At the beginning of the process, it was intimidating. I had to take days off from my work and I didn't want people to know about my problem. I did have to take mental or 'discretionary days' they call back then, to go to court. "Yeah... and it emotionally definitely affected me... mentally, because as I said that I was nervous to see my ex. Also, I didn't want people to know about my situation. Serving papers to the other party was an issue and intimidated. One of the things that was difficult ... I think when I was there ... I felt alone, definitely... So, the first... very first time, because we been there three times, as I said I felt very nervous to see the father of my son... And you are in a very small space, because we are in a very small space right at court... Yea... and you will run into them no matter what... Also just seeing my ex- was intimidating because you feel you are in a close proximity. For me, at the beginning I found the process to be scary". 'Having social support is important and good information, I think... I like that

you are doing this study, just the idea of having the knowledge, and knowing that there are others going through the same experiences and that you are not alone is helpful.... This was emotionally challenging for me. (Participant 1)

For many, filing a case in court carries a stigma, and sometimes people do not want others to know about their legal issues. As this participant expressed, she had to take “discretionary days” as the participant called them. She felt alone and was emotionally affected, especially at the beginning when she felt intimidated about the unexpected process. The resources were not there for her to help prepare the case. Despite her harsh situation, she was determined to proceed with her court process. For this participant, this was the only way to help her son.

For participant 2, the story is intensive and illustrates how SR individuals in family court, the process is a factor placing women’s health at serious risk. It was evident in the participant’s interview that her speech patterns and body language demonstrated that the court process affected her emotionally and physically. She shared the following:

One of the most difficult challenges I faced as SR was the effect on my mental and emotional health...I felt my mental health was disrupted, all areas of my life were affected by this court process...I felt alone, isolated, depressed, and helpless...The whole process was emotionally challenging and distressful...Just managing the legal aspect of the case was a tremendous burden, and felt intimidated. I was not even able to sleep. My mind was constantly thinking on the court process...I was dreaming with the process and when I got up, I was thinking about the same problem...I had little time for other things. I began having problems with all members of my family. My relationship with my children decreased. Most of the time, I was on the computer just filling out court papers, reading related court material, preparing for court dates or doing work related to the process. In reality, I was at home, but it was like I was not present for my family.... Uhm...I was emotionally and psychologically devastated... I felt sick... and felt choking... I just was expending my time reading again and again family law rules to see if I could find more information that would support my case...I never have lived a thing like this before... No...I began having anxiety attacks. (Participant 2)

The detailed description of the emotional and psychological hardship of this experience is not considered in the current literature. The pain and suffering she endured at the court were real, and many of the litigants endure this process in silence. Since it is the litigants’ decision to

appear in court without legal representation, this is the price SRLs pay for that decision and in particular women. Indeed, litigants are subject to a harsh process imposed by the rigid family court system. SRLs are subjected to mental disruptions as a result of many fears, such as having no knowledge of the complex legal process or lacking resources to pay for legal counsel, all causing high levels of stress (Bornstein & Miller, 2013). Participant 2 expressed that “Just managing the legal aspect of the case was a tremendous burden and I felt intimidated.” This is problematic for SRLs like her whose mental stress resulted in job loss due to the time she was spending in court. In the following discussion, she expressed her frustration about the process and how the system worked for people like her who have less resources, which in her case resulted in hospitalization:

After 18 months fighting hard and nearly losing a motion, I got the news that my ex-husband’s lawyers were arguing that the judge couldn’t change an agreement we had done in Colombia (I’m from there) and he wanted the full custody of our daughter ...Then the judge adjourned the motion, saying she needed more time to review the international laws... This news impacted me, I got into the car and started driving, I felt as if I was short of breath, my left arm felt numb, and got a headache... I stopped at Walmart to ask for help, called my son, and the ambulance took me to the hospital... Uhm... The doctor gave me medication... He told me “if you want to live longer and get better, you must stop and forget all of what you are doing”. But it is obvious at that point I couldn’t stop, because I was in...And you can’t stop because the law is the law... It is frightening because I didn’t know what would happen if I stopped... I had a court order that stated my daughter will see her father that day, I had no choice other than get up from the hospital and drop her off at the hotel he was staying. My son said to me “is the hardest thing I have felt, that moment I thought I was losing my mother”. This made me think that I couldn’t continue with the court case... I decided that my family was first, and I didn’t want to lose them for a court case. They are everything that I have and love...uhm... I was losing everything: my health, my family, my job... Imagine! ...I think there is no justice I felt that the system was against me...Just ‘because I was asking for a child support which is a right, the system is telling me “we are going to take away your daughter, you have to have a lawyer or you have a debt with a lawyer”, and I got sick... It was stressful to be waiting for four long months and I went for mediation, instead of continuing with the court process. What I see is that the justice system punishes the victims...it is totally unfair...unfair, yeah... Women are the ones who lose the most in court cases...I ended up in the hospital... I was put on medication, began couples’ therapy with my partner and I still going for therapy. (Participant 2)

Most of the time the pressure exerted by a legal process is disproportionally harsh upon a

SRLs. This case is evidence of this, which resulted in individuals ending up hospitalized. This narrative clearly reveals the effects of SR at family court on the physical and mental health of women. This risk is not acknowledged by family law and policy makers. Furthermore, there is a significant unspoken pressure on litigants as to have a self-composed image in court, and this pressure also influences the disruption of wellbeing of SRLs. Meadows et al. (2008) agreed that this expectation contributes to distress and, in many cases, further affects the overall health of litigants. In this regard, the FJS instead of helping litigants as an agent of justice, becomes an agent of oppression. For example, Participant 2 concluded with her view of the family justice system:

I really admired those women who do the self-representation process in family court because the law treats them poorly. The system makes you feel as if you do not belong there, make you feel offended, and insulted.... I thought that the justice system was just, but with this court process I have experienced, I realized that there is no justice in the family justice system.... There is no justice... No! No... Absolutely no, because...First, it is litigant's health, instead of any paper signed at court ... I think there is no justice... For example, my ex-husband had three lawyers and I had no money to even pay one lawyer. In the end, court by allowing this makes people scared, distressed, and sick. If laws were clearer, less complex, and had more compassion it would be better for litigants... their mental and physical health will not be put at risk during the process. (Participant 2)

This participant's health had been severely affected by such intense systemic oppression, as is evident in her frustration with the rigid family court rules. Macfarlane (2013) stated that mental health of SRLs is affected in this process and there is a lack of resources which represents a challenge for SRLs. This narrative illustrates the reality of those women who appear at the family court without legal counsel or with little knowledge of the system. Zorza (2009) reported that in many cases at the beginning of the court process, a great percentage of litigants have legal representation, but at the end of their cases, up to 80% end up as SRLs. Major reasons for this trend include the fact that litigants find that legal counsel charge high fees, or their cases were neglected. For example, the participant realized that the LA lawyer neglected her case, and then

she went for long period as an SRL. This contributed to her fear and uncertainty of losing her daughter and left her unsure if she was doing the right process. Similarly, she feared the long-term consequences of the outcome of the case for herself and her child's well-being. According to Shepard (2010), any decision done at court has lasting impact, so it is important to be well prepared or have trusted legal advice that will work in the best interest of the litigant. In this case, losing the lawyer was difficult. Structural social work theory recognizes that the system represents a threat to marginalized people. Garnett (1999) expressed that in this kind of environment many people are emotionally, physically, economically, psychologically and politically injured. Participants stated that just the mere fact of being in court is scary for anyone with a legal issue and having no legal support adds to their fear of the outcomes.

Court processes affect everyone, including participant 3. Even though this participant had some legal advice, had family support, and felt confident about her preparation for the process, this still affected her mental health, as described below;

I did my court process on my own...Psychologically, it has a big take on you... I didn't want my children to know, so I kept them away from everything, and usually when they went to school, I went to court". "But the rest of my family members knew that I was going through the process, sometimes they were worried about me... You know when they serve you papers and go through motions it is hard...My main support was from my family...My divorce was not easy... the person that I was divorcing was not easy to deal with... He didn't act properly, and he wasn't honest with the thing he said. Just by reading his motion statements, he brought many inconsistencies that made me so angry and upset. Sometimes, I have to be the one that I said, 'I have to suspend this motion'. I just would show up in court and I said I would like to adjourn this motion because I was mentally unable to do it. I just needed this to be less emotional. When I went to the motions, I wanted to be based on facts. I didn't want my emotions to come out and step in the way... But sometimes I would say 'before I go to see the judge, "I said OK, I went to the washroom and cried... and then I would calm myself down and breathe, in that way I felt a little better, but I was lucky, I never had to break down in front of the judge ... And I managed to do it. You know, each case is so unique; nobody will give you the right answer. When you go to court, nothing that people tell you will help you ... You have to experience by yourself. (Participant 3)

What is unique about this case is the fact the participant made extensive efforts to fit the norm of performing the best according to the court rules, but mentally and emotionally she still was affected by the process. The entire process makes litigants uncomfortable and afraid as stated by this participant. In addition, the presence of the judge, as well as just hearing the other party saying dishonest statements, elevated her stress and brought about strong emotions. Stress causes many impairments and women have been found to be more affected (Starcke et al., 2016).

The participant added the following:

Emotionally it's hard, but for example, once I concluded that before I go to see the judge, I had to go to the washroom. If I was nervous, I had to calm myself down by doing some breathing exercises. Because the court system doesn't acknowledge that if you are a woman representing yourself and you are going through a lot of stress... Uhm, I don't think the court will provide psychological services or any counselor. They don't ask you anything if you feel well or not... that part is completely out of the system. You know how many people are completely breaking down of nerves when they go to court or just the week of the court date... So, it took me a while to understand and had to find out support from another source ...because the court system will not give it to me. They do not provide that support to anybody... As I said before; I got some emotional support from the women group in that organization that was at court. (Participant 3)

Participant 3 explained in detail her experience as an SRL and how this affected her mental and emotional health. This process can paralyze anyone because there is not proper help for SRLs during court appearances. In the eyes of this participant I could see the desire she had in sharing her story about how she was able to endure the whole process. An important point she emphasized was the fact that “the emotional health of litigants is completely out of the court system” (Participant 3). This means that FJS does not consider if the emotional and mental health of SRLs women is at risk. A courtroom generally is not an easy place to be, and the sense of fear just by being there contributes to litigants breaking down either before the court date or in court. Unfortunately, this reality is mostly ignored by the FJS and is mostly out of the literature.

Theme 4: Participants' Perception of Judges' Behaviours Toward Them

This was a minor but important theme emerging from the interviews with participants.

The literature provides little insight on the trial judges' conduct towards litigants. A mixed response was presented among participants in regard to this theme. However, it is important to highlight that in spite of some of the participants' positive experiences with the trial judges, others did not have the same experience.

Participant 1 felt the judges were great:

For me I found umm... beside the duty, counsel, clerk, the judges were great! Yeah... They were just great. I found them to be... Good... And may be because my case I think was fairly easy. Yeah, I found them to be very helpful... I think they tended to be on my side, might be because my case was very cut and dry. Yeah... I can say that, I was never called out by the judge, but my partner was also SR... yeah, yeah... and I heard the judge called him out. Once he showed up unprepared and the judge told him 'You know you are not prepared, and he was fumbling with papers and this and that doing this and that. The judge said "You are wasting our time" ... I was kind of bit happy, quite happy (laugh) that the judge called him off and repeated "You are wasting [participant 1's] time, my time, and the courts time. You are here, and you are not prepared. So... ahh we are going to put this aside for three months. So, you get organize, figure out what you are doing, you need to come prepared." (Participant 1)

Despite this participant describing the judges' behaviour towards her as "great... being on her side." The trial judge was not so nice with her ex-partner, who was also an SRL, but she was quite content with the judge's treatment. According to Goldschmidt and Stalans (2012), the Canadian Justice System (CJS) requires judges in criminal and family law "To provide reasonable judicial assistance to SRLs to ensure fair trials" (p. 142). For this participant, it appeared the trial judge assisting this case was consistent with the suggestions given by CJS when assisting an SRLs (Goldschmidt & Stalans, 2012).

In contrast to participant 1, participant 2 offered different feedback about the treatment she received from the judge managing her case. She stated the following:

I found judges are ok, they take too long to answer or in the cases of adjourning the court date, they take even longer for the next appearance. They are there just to apply the law. But the system is not fair, I felt there is no justice in the justice system and judges apply this system. At the beginning of the process I was intimidated to stand in front of the judge, but then I felt better. (Participant 2)

There was evidence of sadness in the face of this participant as she stated many concerns about how the judge behaved. Included was the disagreement with the time judges took in answering between court dates and the fact that judges are there to reinforce an unfair system. On many occasions, she felt that judges represented a threat to litigants instead of being a source of help. Fear of standing in front of the judges was a significant concern vocalized by all participants. In general, it is already engrained in the minds of peoples that the justice system is the Rule of Law and the courtroom is the place where the Rule of Law is applied. This idea creates a sense of responsibility for parties to be well prepared according to the court rules. Preparing a case according to civil procedures is equivalent to better outcomes. Therefore, the pressure is high for SR clients to impute the best efforts to present their cases, because court process is about who presents their case best (Sandefur, 2015). For this participant, the main reason for bringing this case to court was to seek child support, and not being prepared for court procedures would put her financial stability at risk. The SR process is not an easy process to deal with, especially when litigants have children, lack of financial resources, and breakup of the family. This participant was dealing with a multilayer issue. She struggled to manage many issues at once, while remaining self-composed because the law required it, and for many it is not an easy task to navigate while in court.

Participant 3 showed pragmatism throughout the discussion about the judge's trial behaviour toward her as an SRL. The next paragraph outlines her insights:

The judges were always well behaving... A judge will never treat you/... You know ...they are like poker players... They are the judge... And they take it very well, they are very clear, and they explain to you... You are self-represented, but you need to follow the process. So, if you don't do the requirement, they will call up on you. They will say, 'your decision was to be self-represented, so you have a commitment, you have to go and do your process'. That didn't happen to me but I heard it so many times in court that judges were saying to others... well the judge said, it doesn't matter, you have not read. ... You must prove if you can do it. If you decided to do this by yourself, your minimum input is to be prepare because you decided, and this has consequences, and the consequences are that you need to document yourself... I was lucky that I had the EIP

program, I was able to ask questions to inform myself and I was reading the family law rules. I prepared myself well. I had no problem with judges, but it is intimidating standing in front of a judge, especially at the beginning of the process. (Participant 3)

She thought the trial judge had a more neutral tone and expressed that “They are like poker players.” The undertones of this expression refer to “An inscrutable face that reveals no hint of a person's thoughts or feelings” (“Poker Face,” 2019, para. 1). A skill required in certain settings “where decisions must be taken under uncertainty” (Schiavella, Pelagatti, Westin, Lepore, & Cherubini, 2018, p. 825). This is telling about the nature of the justice system and the behaviour of judges applying the Rule of Law, the combination of beliefs that the courtroom is a scary place, and the trial judges’ appearance and behaviour that creates a sense of anxiety and distress in litigants.

Having identified how judges are agents of reinforcing laws as unchangeable, it is also evident that they disregard circumstances that are outside of litigants’ control. Examples of these circumstances included when litigants were emotionally unable to tell a concise story, lack of financial resources to retain a lawyer, lack of time for court appearances or court orders, feeling intimidated to be in the presence of a judge, or other circumstances that prevent them from performing well (participants 2’s & 3’s stories). This lack of court understanding, and compassion resulted in poor legal outcomes for SRLs. For instance, participant 2, expressed strong discontent with her court results and attributed them to the barriers she faced to access reliable legal representation. Regardless of any uncontrollable circumstances SRLs faced, most participants felt pressured to present as self-composed individuals in court trials or followed court orders. In contrast Grootelaar and van den Bos’s (2018) research concluded that when “litigants who perceive the judge’s treatment as fair are more likely to trust judges” (p. 264) this attitude did make a difference in their outcomes. Two of the participants viewed their judges favourably, yet lawyers were seen as untrustworthy, but as stated previously. However, in the end participants judges act as gatekeepers in the courtroom. Similarly, Oleinik (2014) agreed that

judges roles is to act as gate keeper in the justice system.

Outcomes of These Cases

Although participants found the SR process oppressive and exhaustive in nature, once they stood in front of judges at the end of this process, most participants acknowledged that it was worth acting. All cases were granted child support and custody; however, these outcomes were not without price. The participants faced a long unnecessary and excruciating court process because they believed that access to justice is an essential service for their needs. Further, they stated that our FJS needs the input of politicians to make changes that improve women's conditions, especially those SRLs in family court. As an insider and as a researcher, I add part my own story and echo the participants' sentiments. As an SRLs in family court, I have been representing myself for five years in a case for spousal support/compensation payment. It is emotional, psychologically devastating, and my physical health has been compromised by the chronic stress I have been exposed to for many years. As has been previously expressed, this is an unnecessary process which is a waste of time for both the court and litigants. These processes should be simpler and shorter; at the same time, I recognize that court processes are important for cases that have no other alternative but should be declared as an essential service and not a private one as it is currently. This private status contributes to the feminization of poverty and our children's poverty.

In conclusion, the findings from the three narratives highlighted the reasons that led the participants to choose SR in family courts. Most of the discussion was dominated by the lack of financial resources, which was one of the major reasons leading participants to opt proceeding without legal representation. Meanwhile, most participants felt that the current adversarial court process is unnecessary for family cases. The process was considered too abrasive for vulnerable SRLs, causing them fears, disrupting both mental and physical health. Furthermore, the FJS is a

private enterprise, it leaves many people without access to justice, and this contradicts the ‘Rule of Law’ entrenched within the Canadian *Charter of Rights and Freedoms*. The fundamental individual constitutional right stressed that “Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law” (Canadian Charter, 1982, s 15 (1). P. 3). Indeed, the privatization of the law compromises and contradicts the democratic values and principles in our society at large. Finally, participants’ reflections outlined a range of recommendations that suggest a desire for a change in the current oppressive private FJS to a system that is more compassionate, equal, and accessible for all.

Participants’ Recommendations

Participants understood that SR is a frightening process and provided key recommendations for women to succeed in family court. As well they provided suggestions that FJS should consider improving access to justice in family court for SR women. The following are some of the most salient recommendations among the three cases.

For women to succeed:

- Definitely just be an advocate for yourself, ask many questions, and find the resources that are out there.
- Read the family law rules and choose those that apply to your case, get familiar with the process, and see how it works. Keep in mind that the family law is complex, and you might get confused.
- Document yourself, file the proper applications, and follow the rules.
- Do not be afraid of the process and don’t let your emotions get in the way, because the process is scary. Just being in front of the judge and hearing your ex-partner’s statements brings many emotions.
- Visit the court to see other cases and pay attention to how lawyers and judges behave.
- Take care of yourself and be strong because the process is tiring and emotional; there will be moments where you will want to give up.
- Visit the physician to check your health because the court does not care about your health
- Having social support is very important.

Important factors FJS should change to provide assisting SRLs in court procedures:

- Use of simple and clear court language in all of the FJS material; accessible court language.

- Family law should be de-privatized.
- Faster court process and make court procedures technology friendly.
- Adversarial processes should not be used for family cases.
- Provide free case assessment programs and recommend what is the best option to resolve family legal conflicts, or free programs to prepare litigants for court appearances.
- From the beginning of the process, other alternatives than the adversary court process should be available to assist in family legal problems.
- Provide emotional and other mental health counselling for those in need.
- Court must take account of the distress and mental health resulting from court process.
- Legal Aid should not be for women, LA lawyers have been found to be unreliable; instead a different method should be designed to assist SR women in FJS.
- Duty counsels should not ask how much litigants earn and should not discriminate base on the earning of litigants.
- More dissemination of information about court processes should be provided.
- Those working with litigants should have conflict resolution and psychology training.

CHAPTER 6: IMPLICATIONS

Examining the issue of self-represented litigants at family court was a daunting task. This issue is complex and involves a range of complex factors, including economic disparity among litigants, high legal fees, discontent and mistrust of legal counsels among litigants, limited LA, lack of political will to reform the family justice system (FJS), and the absence of programs to help SRL women find remedies to their legal issues. Furthermore, upholding inflexible family law keeps SRL women in impoverished conditions, though it is already known that in many cases these individuals are already financially, emotionally, and psychologically at risk. In addition, there are two key factors contributing to the SRL issue, one being the historic legacy of the privatized FJS, and the other being the overall and vast economic enterprise that privileges few in society. Mullaly and West (2018) stated that oppression perpetuated at the structural level has a direct connection to “the means by which oppression is institutionalized in society. It consists of the ways that social institutions, laws, policies, social processes and practices, and the economic and political systems all work together” (p. 31). It is evident the role the FJS plays in the increasing poverty levels and oppression among SRL females.

Importance of the Research Study and Key Findings

The main goal of this research study was to examine the lived experiences of disadvantaged SRL women in family court and barriers they face accessing justice. The findings from the interviews are important since these are first-hand lived experiences. They are an alternative to the existing family law narratives where “Professionalised narratives replace human stories and the voices of expert witnesses supplant those of the parties” (Berns, 2000, p. 3). The participant narratives show the painful reality of women trying to access justice in an unjust system. They describe the barriers SRL women faced in this journey. I found that

marginalized women are more likely to experience these barriers, making them more vulnerable to poor overall health.

The results from the interviews generated many themes that merit analysis. Participants' stories greatly contributed to the discussion about their marginalization and its effects on their access to justice. Another concern that emerged from these stories was the lack of government commitment to provide full benefits to access justice of the Rule of Law for all citizens. This was noted during the discussion of the lack of programs, LA assistance, fear of facing court processes, effects of the process on health, and participants' perceptions of the trial judges. Accessing the benefits of justice in family court is limited for marginalized women (Berns, 2000). The participants also rejected the idea of courts using the due process for family matters and provided a range of recommendations for women to succeed in family court and to improve the current FJS.

Implications for Community Members, Social Work Practice, and Policy Change

Community Members

For marginalized SRL women living in harsh economic conditions, these findings are essential to understanding how to access justice. SRL women need the right tools and need to know how to advocate for themselves. The participants recognized that the dissemination of clear information about the FJS' and courts' operations is important.

Frontline Social Workers

One of the purposes of this research was to bring out SRLs' narratives, especially the barriers that women face in the FJS, since their voices have been mostly excluded from current social work literature. Often when women are experiencing family legal problems, they search for help in community centres or clinics, which are often social work settings. Since social

workers are potentially the first point of contact with these clients, the findings of this study are relevant to practitioners because they can provide a guide for working more effectively with SRL women. The findings also encourage practitioners to be more involved in learning about family law rules and help reduce the barriers by increasing the interest to find or develop new social programs that are more accessible to assist service users with family legal problems. These changes can help SRL women to better emotionally prepare for court appearances. Moreover, the new findings may also facilitate dialogue among practitioners about the complexity of the SRL issue for both marginalized women and their families in accessing proper justice. This information adds more depth and breadth to frontline practitioners' knowledge base on the issue. Since SRLs involve a diverse and economically disadvantaged population having been largely denied from obtaining the full benefits of society, this information provides social work practitioners with a tool to advocate at the different levels of government for an equal access family justice system for all.

Policy Change

These new findings are intended to inform stakeholders and social workers that are involved in policymakers' decisions when evaluating existent programs and creating new ones. These may include duty counsels, legal aid, community legal clinics, development of emotional support programs, and other programs that may assist SRLs to reduce the harshness of the process they undergo at Family court. These programs are essential for this population, as Coumarelos et al. (2012) argued that legal problems negatively affect litigants' health. Furthermore, Healy (2005) suggested that social workers can contribute in many areas of the law as policy change, advocacy, and other legislation may contribute to new program development for marginalized women or other groups.

Feminization of Poverty

The poverty line concept in Canada is poorly defined and instead it uses the Low-Income Cut-Off (LICO) (Statistics Canada, 2008; Williamson, & Reutter, 1999). This concept does not clarify who is living under the cut-off poverty line. According to Townson (2000), LICO is defined as “low income in relative terms, based on the percentage of income that individuals and families spend on basic needs ... in comparison with the rest of the population. Families and individuals who spend a disproportionate amount of their income on these necessities are considered low-income” (p. 2). The term “disproportionate” is unclear. Townson (2000) compared Canadian statistics from the 1980s with those of the early 21st century and found that the number of adult women living under poverty increased from 1.8 million to 2.2 million. Poverty is a reality for many women in Canada. Participants in this study have emphasized their main reason to opt for SR was their lack of finances. Unfortunately, Townson (2000) failed to identify the role the FJS plays in disadvantaging women in court processes, and few articles exist that connects the role of the FJS and women’s poverty; this was evident in the findings.

Neoliberal policies have also played a role in the increasing feminization of poverty by cutting LA assistance for lower income women (WCLEAF, 2007). Other contributing factors include current family law allowing easy divorce, separation, and the poor social infrastructure for these women (Mossman & MacLean, 1986). Most participants expressed frustration about the unfairness of the FJS and the barriers to access justice to resolve family legal issues. This clearly indicates the role family law policies play in women’s poverty. In cases where LA provided certificates, it was difficult for women to find lawyers who accepted their cases and when their cases were taken, neglect ensued, leaving them in worse conditions (Participant 2). Disagreement was echoed among participants with the lengthy court processes, stressing that it

took up to five years or more to resolve a case, which deepened their poverty. They mentioned feeling pressured them to accept unfair court agreements. This is supported by Barnett (2017) who stated that judges and lawyers can act as gatekeepers by maintaining a system which pressures females' litigants to accept unfair agreements. In this regard, the family law system is a tool used to increase the feminization of poverty.

Theoretical Relationship With Outcomes

As outlined before, SRLs is a complex issue, and structural social work perspective illustrates many aspects of this discussion that have been useful in analyzing this complexity. Given that this approach focuses on critiquing the foundation of social institutions, it also recognizes that these institutions contribute to the reproduction of poverty, oppression, and other marginalization of people, particularly women (Lundy, 2004; Mullaly, 1997, 2002). An important characteristic of this theory is that it addresses the three environmental levels of practice: micro, mezzo, and macro; individuals' problems are tied to all three levels (Hick et al., 2010). Similarly, participants' problems are also tied to the same three environmental levels.

Since SRLs is an issue that cannot be analyzed through one lens, in bringing together participants' reflections, I believed it necessary to note the contribution of an AOP lens. Core values of AOP recognize the many layers of systemic oppression marginalized individuals and communities experience (Hutchison, 2015). AOP also acknowledges that service users are the experts of their own stories and that oppression has a political dimension rooted in social policies, laws, social practices, and economic structures working to disadvantage vulnerable people (Healy, 2005; Mullaly & West, 2018). In short, the participants faced most if not all of the same issues that concern structural social work and AOP frameworks. It is important to note that both theories are committed to create change at the systemic level to ameliorate existing

systemic oppression that often reinforces the marginalization of women and the feminization of poverty. In the same vein, this study has similar objectives of mitigating the multiple systemic barriers SRL females faced in family court.

Research Evaluation

The Social work profession is in great part shaped by qualitative research, including Creswell (2013); Denzin and Lincoln (2005); Brown & Strega (2005) who advocate for research that provides readers with trustworthy sources, while conceptualizing research into practice. For instance, Potts & Brown (2005) argued that AOP research is first committed to change to those who are doing research, and this is “not a process to discover knowledge, but a political process to co-create and rediscover knowledge. ... We construct emancipatory, liberatory knowledge that can be acted on by and in the interest of the marginalized and oppressed” (as cited in Brown & Strega, pp. 261-262). In doing critical research, one must pay attention to both the political arena and the historical events that created the social injustices. As an MSW student, I have been encouraged to be engaged in knowledge production as I do social research. Humphries (2008) stated “Social research [is] not solely ... a range of neutral approaches to the examination of social problems, but [is] a profoundly political exercise, and as having potential to contribute to social change for good or ill” (p. 1). I hope I have done this by bringing to light the issue of SRLs.

Limitations and Future Research

This research does have its limitations. Even though more than five participants were interested in sharing their stories, only three were considered for interviews. The small sample size limited the applicability to a large population. Yet in qualitative research, small sample sizes are perfectly fine, since this approach focuses on gaining a deeper understanding of participants’

lived experiences (Clandinin & Connelly, 2000). Researcher familial circumstances also played a limiting factor. Likewise, the voices of participants from small cities and rural areas are excluded. In addition, the exploration of the mental health of SRLs during and after their court process was limited, and further research is needed to address this issue. Research is also needed to make family law an essential service like health care and education as was stated by Justice McLachlin (2013), and most of the participants expressed the same concern. Likewise, more research is needed to create different services than LA to assist SR women, since some of the participants view LA services and lawyers as unreliable agents when assisting marginalized women with their legal cases. Further, Ontario's government cutting 30% of the annual LA budget will worsen women's legal assistance (Paikin, 2019). These cuts should be addressed in further studies, as the SRLs are a national issue.

CHAPTER 7: REFLECTION AND CONCLUSION

Reflection

Reflexivity is an important component in social work research and practices. Lather (1991) argued that reflexivity invites researchers to reflect on their own practices and to examine their “own personal, political, and intellectual biographies and to make explicit their social world and the critical role they play in creating, interpreting and theorizing their research” (as cited in Fitzgerald, 2004, p. 236). Throughout this work, I constantly reminded myself of my critical role in reflecting upon my personal experiences, beliefs, and making myself aware of my positionality within the research. This was not an easy task; for instance, reflecting on the participants’ narratives, all found that family law language was too complex for them. This brought me strong memories of my own experience as an SRL in family court. Analysing the legal language, I see who has the power to profoundly influence and hinder an individual’s court outcomes. Indeed, it is imperative that court language must be accessible to all people, otherwise, the FJS creates more barriers for the most vulnerable people, instead of serving as a system that people should trust and look up and to resolve issues requiring court intervention.

I also reflected on the fear that court represents for people, among these are fear of standing in front of the judge, fear of not be able to articulate the reality of their right lived experience, and fear of how one’s own behaviour will be perceived in the eye of judges. In research “Representation has consequences... how people are presented is how they are treated” (Madison, 2004, p. 4). Self- represented litigants have many fears because most often they are represented in the literature as ‘others’, undeserving people, lawbreakers, trespassers, and many other derogatory terms, all used to describe this group of litigants (Bertrand et al., 2012; Lewis, 2007; Chui, Kelly, & Cameron, 2007; Netolitzky, 2018; Tkacukova, 2016). Throughout this

study I have been aware of the language I used, and advocated for simple and clear family law language, instead of the current legal jargon that confuses many litigants. It is crucial that Family Law must be available to all citizens, since this is one of the pillars of the Canadian society (Trebilcock et al., 2012). It is in the interest of the state to provide accessible family law for those who need to resolve family problems that require legal intervention as this affects many if not all segments of our society.

Most of all, my interest in furthering this study is to keep advocating for free, and accessible family law. Reducing barriers and supporting accessible programs to address family legal issues for SRLs, at the same time providing a clear and simple family law language is one way to reduce the systemic oppression and barriers for women. Further, this would reduce time for SRLs learning all of the specialized court terminology currently accessible to only few individuals. This was a major concern for all participants. The use of a flexible and clear family law language will increase the accessibility to justice for people with legal family issues without pushing them into deeper poverty resulting from astronomical legal bills. The goal of presenting this approach is to improve current family law that often serves as a tool of marginalization for women by depriving many of them access to the right justice for family legal matters and increasing health problems for this population. In the end current family law practice results in the increased feminization of poverty.

Conclusion

Access to justice is a human right for citizens, and for a healthy democracy where the so-called Rule of Law is supposed to guide Western democracy. In Ontario and Canada, access to the essential service of family justice is restricted for average Canadians, and these restrictions are greater for disadvantaged individuals. By doing this MRP, I not only gained a greater

understanding about the systemic oppression of the FJS and the challenges SRL women face during their family court process, but also of the determination of these participants to keep themselves strong to find resources to present their cases in court. This process required a lot of work and persistence.

This should not be the only way to resolve family legal issues, as participants have expressed discontent with the adversarial process. For them, the current FJS affected their health, finances, and emotional wellbeing. This hardship does not just disproportionately affect socioeconomically disadvantaged women, but also their children, which contradicts the purpose of this system that stated that their main priority is in the best interest to protect the most vulnerable family members mostly children (Laing, 1999; Young, 2001). Thus, those who are delivering and implementing the Canadian FJS must understand that these kinds of court practices continue to perpetrate abuse and disadvantage women and their children already living in impoverished conditions. It is imperative that our Canadian family law ensure SRL women have access to accessible legal representation and jargon-free language in the court system as well as other services that will improve their access to justice.

There is no doubt that our society needs an FJS to resolve family matters that cannot be resolved by other means than at family court. However, a drastic change is needed to address the current Canadian FJS limitations to access justice. This system is too complex and is designed to deliver justice for few members in our society, such as the wealthy. This study found that the Canadian FJS provides too much law and delivers too little justice to Canadians and even less justice for women and those in disadvantaged living conditions. This demonstrates that justice is not equal for all Canadian families who access the FJS. Therefore, it is crucial that this system make fundamental reforms in favour of an equitable law for all Canadian citizens.

Appendix A – Research Ethics Board Approval



REB File REB 2018-051

To: Maria Jovel-Rollins
School of Social Work

Re: REB 2018-051: Self-Representation in the Family Court: Is Justice for all in Canada?

Date: July 11, 2018

Dear Maria Jovel-Rollins,

The review of your protocol REB File REB 2018-051 is now complete. The project has been approved for a one year period. Please note that before proceeding with your project, compliance with other required University approvals/certifications, institutional requirements, or governmental authorizations may be required.

Congratulations and best of luck in conducting your research.

A handwritten signature in black ink, appearing to read "Patrizia", followed by a long horizontal line.

Dr. Patrizia Albanese, PhD
Chair, Ryerson University Research Ethics Board

Appendix B –Consent Form



Ryerson University Consent Agreement

My name is Evelyn Jovel-Rollins, I am a Master of Social Work student at Ryerson University. Dr. Jennifer Poole, an Associate Professor and Director of the Graduate Program in Social Work at Ryerson University is supervising my Master's research. I invite to participate in a research study titled:

SELF-REPRESENTED LITIGANTS IN FAMILY COURT: IS JUSTICE FOR ALL IN CANADA?

Please read this consent form so that you understand what your participation will involve. Before you consent to participate, please ask any questions to be sure you understand what your participation will involve.

INVESTIGATOR:

If you have any questions or concerns about the research, please feel free to contact:

Evelyn Jovel-Rollins
jovele507@gmail.com

Supervisor, Dr. Jennifer Poole
jpoole@ryerson.ca
(416) 979-5000 ext. 6253
Ryerson University
99 Gerrard Street East
EPH-200D, Eric Palin Hall

PURPOSE OF THE STUDY:

The purpose of this study is to have a wider understanding of the challenges that self-represented litigants (SRLs) face in the family court. This study specifically focuses on the barriers women of low resources currently face in accessing basic justice without proper legal representation. The information obtained from participants will be used to better understand those who are not able to access basic justice in family court.

The number of participants needed for this study is between three and five participants.

I would like to invite those who have gone through this process in the last five years or those who are currently are going through this process to participate.

WHAT YOU WILL BE ASKED TO DO

If you volunteer to participate in this study, you will be asked to do the following:

- Read the following consent form and if you have any questions please ask for clarifications
- Please confirm via email “jovele507@gmail.com” if you are interested in participating in this study
- Participate in a one-on-one interview ranging from 1.5 to 2 hours in length. The interview will take place at Ryerson University, a public library, or at your convenient location
- Agree to be audio-recorded for the duration of the interview
- Share your opinions or views about your court experiences as a self-represented litigant including:
 - The challenges of accessing justice at family court
 - Experiences of any community programs that provided you with significant advice on how to navigate the court procedures
 - Ways in which you have been able to handle the court process without legal representation
 - The impact of this process on your health and/or finances
- Complete the interview
- Maintain confidentiality of the interview or share information outside of the study

To help facilitate our communication, please provide the researcher with a preferable email address to arrange our interview meeting time and location. Please use the student email provided above.

Participant names will not be released in the final report; instead, I will use pseudonyms or numbers.

Should any participant be interested in a final copy of the research paper, I will make it available at your convenience.

POTENTIAL BENEFITS:

I cannot guarantee if you will benefit from participating in this study. However, taking part in this research is a way of sharing the reality of many women representing themselves in family court. My goal is that this study will contribute to a new discussion in social work and other helping professional fields about family justice in Canada.

WHAT ARE THE POTENTIAL RISKS TO YOU AS A PARTICIPANT?

The potential risk for participating in this study is low to minimal.

There may be emotional discomfort or unpleasant memories that emerge as you share your experiences. Please let the researcher know that if you want to skip any question, I will modify or pause for your comfort. Additionally, you have the right to stop your participation in the study at any time.

If you decide to discontinue the study, you will not face any negative consequences; neither will you harm the researcher's work. Important to remember that this is voluntary participation and you are entitled to stop temporarily or permanently at any stage of the interview or the study. Any personal information collected from you will be disposed of immediately and you will receive an email as a confirmation of this.

CONFIDENTIALITY:

All information and data you provide will be highly secured and stored in a locked location and will be kept until the research is completed, which is around the end of August 2018. This is necessary to complete this study. After this period, all of the gathered information will be disposed of and destroyed. However, as stated prior, only Dr. Jennifer Poole and I will have access to this information to complete my degree. No piece of information, such as recorder notes or other data collected from participants, will be released to a third party for any other reason without your consultation first and your full consent.

You have the right to ask to review any information gathered from your interview. If you want to review any of this information before and during the transcription, feel free to request and I will make it available to you in a safe way.

Please be aware that the only time confidentiality could be breached if you disclose to me any information that you pose a risk to yourself or other people, and in the case of child abuse. In these cases, as a social worker I am required to report you to the right authorities.

INCENTIVES FOR PARTICIPATION:

A light refreshment will be provided upon the interview. Transportation expenses, TTC tokens or any expenses up to \$20 related to transport to and from the interview site will be reimbursed.

In appreciation of your time, a \$10 gift certificate from Shoppers Drug Mart will be given. If you wish to withdraw from the study during or after your interview, you will still receive the stated compensation.

VOLUNTARY PARTICIPATION AND WITHDRAWAL:

Participation in this study is voluntary. If you decided to participate, please be advised of the following: any question during the interview makes you uncomfortable you can skip it, and in the event you may wish to stop participating, you can do so at any time during the study. This will not interfere will not prevent from receiving both the incentives and reimbursements described above.

If you choose to participate, you may also choose to have your data included in the study, but in the event you decide to withdraw from study, you may choose not to have the data included. Please inform the researcher about your decision and the collected data will be removed.

Your choice whether to participate will not influence your future relations with Ryerson University, or the primary researcher Evelyn Jovel-Rollins nor to the supervisor Dr. Jennifer Poole as supervisor of the research.

QUESTIONS ABOUT THE STUDY:

If you have any questions about the research now, please ask. If you have questions later about the research, you may contact:

PRIMARY RESEARCHER:

Evelyn Jovel-Rollins
BSW, MSW student.
jovele507@gmail.com

SUPERVISOR:

Dr. Jennifer Poole. MSW, PhD\
Graduate Program Director &
Associated professor; School of
Social Work,
Faculty of Community Services
Ryerson University
jpoole@ryerson.ca (416)
979-5000 ext. 6253

The Ryerson University Research Ethics Board has reviewed this study. If you have questions regarding your rights as a participant in this study please contact: **Research Ethics Board** c/o Office of the Vice President, Research and Innovation

Ryerson University
350 Victoria Street
Toronto, ON M5B 2K3
Tel: 416-979-5042
rebchair@ryerson.ca

Appendix C – Confirmation Agreement



Self-Represented Litigants in Family Court: Is justice for all in Canada?

CONFIRMATION AGREEMENT:

Your signature below indicates that you have read the information in this agreement, have been given the opportunity to ask any questions about the study. It also indicates that you agree to participate in the study and were informed of your entitlement to withdraw from participating at any time during the study. A copy of this document will be provided to you.

You have been informed that by signing this consent agreement form, you are not giving up any of your legal rights.

Signature of Participant

Date

I agree to be audio recorded/video recorded for the purposes of this study. I understand how these recordings will be stored and destroyed.

Signature of Participant or Parent/Guardian

Date

Appendix D – Social Media Recruitment Material



SOCIAL MEDIA RECRUITMENT MESSAGE

PARTICIPANTS NEEDED FOR RESEARCH ON SELF-REPRESENTED LITIGANTS IN THE FAMILY COURT.

- **DO YOU IDENTIFY AS WOMAN?**
- **ARE YOU OVER 18 YEARS OF AGE?**
- **HAVE YOU EVER REPRESENTED OR ARE YOU REPRESENTING YOURSELF WITHOUT LEGAL COUNSEL/LAWYER IN FAMILY COURT?**

IF YOU ANSWERED YES TO THE ABOVE YOU ARE INVITED TO PARTICIPATE IN A STUDY ABOUT UNDERSTANDING THE EXPERIENCES AND BARRIERS WOMEN FACE WHEN REPRESENTING THEMSELVES.

THIS STUDY (2018-051) HAS BEEN APPROVED BY THE RYERSON UNIVERSITY RESEARCH ETHICS BOARD.

TRANSPORTATION/APRECIATION

YOU WILL BE PROVIDED WITH TTC/PARKING REINBURSEMENT UP TO \$20 OF EXPENSES AND A \$ 10 SHOPPERS DRUG MART GIFT CERTIFICATE.

IF YOU ARE INTERESTED, PLEASE EMAIL ME AT

jovele507@gmail.com

OR

jpoole@ryerson.ca

Appendix E – Narrative Interview Guide



INTERVIEW GUIDE

1. Tell me about your experience of representing yourself in family court.
2. Why did you decide to represent yourself?
3. Have you met others in the same situation?
4. What kinds of challenges have you faced during this process?
5. Could you please tell me about the kind of resources and support programs you received or were available to prepare you to present your case?
6. How did this experience affect you? Mentally? Emotionally? Psychologically? Your family, work or otherwise?
7. Are there other women you think that are interested in addressing this issue who will then choose if they wish to contact me?
8. What do you think about the Ontario justice system when it comes to family law?
9. In your view, how efficient do you think legal aid is at helping women in these cases?
10. What do you think women representing themselves need to succeed in getting better court outcomes?
11. Is there anything else you think I should know?

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