

GUTHRIE AWARD ACCEPTANCE SPEECH
October 17, 2019

I am deeply honoured to be receiving this award tonight. Thank you to the Law Foundation of Ontario, to my colleagues who provided letters supporting my nomination and to all of you for being here this evening. Especially, though, I want to thank Carol Barkwell and Paula Wansbrough, with whom I have been conspiring and working for years about how to increase access to justice for women who have survived male violence, and who put this nomination together.

I did not have the pleasure of knowing Donald Guthrie, who died earlier this year at the age of 90. Based on what I learned from his obituary, I doubt that we would have agreed on who to vote for in Monday's federal election, but I suspect we would have found considerable common ground nonetheless. His friends and colleagues described him as honourable, kind, honest, considerate and decent: all important components of a commitment to access to justice, which is what this award is about.

While I had wanted to be a lawyer since I was a kid, I didn't get around to it till I was in my mid-30s. Between my early dreams of becoming a lawyer and then, I had two children, was involved in starting a co-op day care centre at the University of Guelph, owned a restaurant/folk club, worked for Harrowsmith magazine, became a political activist, ran, unsuccessfully, in a provincial election, ran, successfully for the school board in Frontenac County and created a blended family with my partner and his children.

I also had a criminal record, and that was one of the reasons I wanted to go to law school. My criminal record, in which I take a lot of pride, is the result of political activism involving non-violent direct action. In the course of that work, I found myself in courtrooms frequently, usually in a group, usually representing ourselves, and I became re-fascinated with this institution – the law – to which our society gives so much power and respect.

I wanted to learn more about it; to see how it could be used as a tool to support social justice and change rather than as a weapon of oppression.

When I started law school, I was not thinking about women in particular; in fact, I think I had a picture of myself as a kind of modern-day, feminist Perry Mason, righting criminal wrongs with or without Paul Drake and Della Street.

However, it did not take long before I saw the many ways in which the law – despite such important advances as the *Charter of Rights and Freedoms* – continued to deny women equality. In particular, the failure of the law to respond to violence against women became undeniably obvious to me.

In an act of over confidence, or perhaps insanity, after I finished articling, I opened my own practice, still not sure exactly what it was I was going to do.

Of course, I had to open bank accounts for this new venture; *that* we learned a lot about in the bar admissions course. I had to have a general account, out of which I would pay my bills and, at some point, myself, and a trust account, where I would deposit retainers from my clients.

In doing so, I discovered that the interest generated on the funds in my trust account went to something called the Law Foundation of Ontario. I can't say I gave it much thought at the time and, I have to admit to the LFO now, that I don't think you made much money off my trust account, because few of my clients ever provided me with a retainer.

Soon after I had my business cards printed, my bank accounts opened and my desk organized, a young woman, clutching a baby and accompanied by her friend, came into my office, with a look of desperation on her face, and told me she had run out of her house when her husband had pulled out a shotgun during an argument. She had had to leave her other child behind, because her husband and his gun were between her and that young child.

I need to be clear here, that this woman did not come into my office because she had heard about this amazing new lawyer in town. Her friend had parked her car nearby, they saw my brand new shingle and headed through the door.

I like to think I was able to assist her, despite my inexperience. I do know that she helped me: no longer was I wondering what I would do as a lawyer. I was forever hooked on increasing access to justice for women dealing with misogynist violence.

For several years, I did this primarily through my law practice. Mostly, I represented women involved with family court, but I also acted for women who had been criminally charged with one thing or another (most often shoplifting); most of whom had survived lifetimes of abuse and violence. I also worked for community organizations (shelters and sexual assault centres, primarily) that supported women dealing with men's violence – this was in the heyday of defence lawyers' pursuit of women's private records in sexual assault cases.

Sometimes, my clients had decent legal outcomes. Often, they did not. Over the course of four or five years, I realized that both the family and criminal law systems as institutions, along with some of those working within those systems, were not able to respond appropriately to male violence against women.

With few exceptions, laws have not been written to respond to the unique realities of male violence against women, and many of those interpreting and using those inadequate laws have had no education about male violence against women.

As I continued to represent women dealing with male violence, I became highly traumatized by my work. Now, this is something we lawyers are not supposed to talk about. In fact, when I was practicing law, we didn't even know about it. Nothing at law school or articling or bar ads even mentioned the possibility of being emotionally damaged by the work of being a lawyer. I was

completely unaware that the constellation of symptoms I had developed pointed to classic vicarious trauma.

Fortunately for me, I worked closely with the women's shelter in Kingston, where VT is well understood, and the Executive Director told me I needed to get myself to a therapist fast. I did, she was great, and I quickly realized that, while I wanted to continue my work on violence against women and the law, it needed to be in a different way.

Thus began what is now more than two decades of splitting myself between my personal life in eastern Ontario and my work, almost all of which is elsewhere. My work shifted from the individual advocacy of practicing law to the systemic advocacy I have been engaged with ever since.

The LFO soon became much better known to me than it was when I was a practicing lawyer. I quickly learned that part of what it does with the money it collects from lawyers' trust funds is to support access to justice work at the community level. In particular, the Foundation's support has made the innovative work we do at Luke's Place possible, and for that I want to express my sincere appreciation.

My experiences with the LFO have been the most positive I have had with a funder. The generosity of spirit, the openness to supporting new and untested ideas, the willingness to work with fundees -- all create real partnerships and lead to outcomes that increase access to justice for those Ontarians who live largely in the shadow of the concept of justice most of us in this room take for granted.

And that's what it comes down to for me: access to justice, something many of the women I have had the honour to work with and on behalf of for the past three decades deserve but do not yet have.

One year ago today, Farrah Khan and I resigned as the co-chairs of Ontario's Violence Against Women Roundtable because the government had failed to respond to our repeated inquiries about its commitment to addressing violence against women, so tonight seems an especially appropriate time to talk about access to justice.

Yes, women have formal equality thanks to the Charter of Rights and Freedoms. Yes, women in Canada are better off than women in many other parts of the world. Yes, things are better than they used to be.

But that does not make them good enough.

Women who have been subjected to male violence, whether that violence has happened within their intimate relationship, at work or school, in their religious institution or in their community, face numerous and significant barriers when they look to the family and criminal legal systems for accountability and protection.

When women tell their stories of abuse – whether in criminal or family court, they are often not believed by the systems that they are told are there to protect them. Sometimes, they are told to be silent about that abuse.

By conservative estimates, 25 to 30% of women are abused by an intimate partner, and yet family court remains focused on conciliation and friendly parenting, as if such concepts are even a possibility when one partner is bent on terrorizing and controlling the other. Women who engage in protective parenting are accused by their partners of alienating the children from them. They settle, again and again and again, for custody arrangements that do not keep them safe or ensure the best interests of their children.

Family court process itself – so-called “friendly litigation” – pushes women into mediation, even when it is not safe or likely to lead to an appropriate outcome.

Fewer and fewer women have a lawyer to represent them through their family court case – and with ongoing cuts to Legal Aid Ontario’s budget, this situation will only get worse.

Imagine being told that you would have to remove your own appendix if you did not have enough money to pay for the doctor yourself. That lack of access to health care would be seen as an outrage, yet a lack of access to justice in family law seems to be accepted by those in positions to make change.

In criminal court, women who have been sexually assaulted continue to face out of date and long since disproven myths and stereotypes that makes testifying sometimes worse than the sexual assault itself. The system is so hostile for survivors that fewer than 10% of women even report sexual assault to the police, even though approximately one in three of us will be sexually assaulted at least once.

Criminal court is no better in terms of access to justice for women whose partners have been abusive. It is no wonder that only about a quarter of women subjected to intimate partner abuse report to the police. But, because of mandatory charging – a policy that made sense at the time it was implemented 30 years ago but that needs a serious rethink in 2019– men are charged even when their partners have valid reasons for not wanting that to happen. And, as a result of mandatory charging, women who are primarily the victim of abuse are sometimes charged themselves when they attempt to protect themselves or stop an anticipated assault by their partner.

Every day, I enjoy the privileges -- largely invisible to those who enjoy them -- of being white-skinned, having grown up middle-class with parents who believed their daughters as well as their sons needed a post-secondary education and career, being more or less of sound body and mind and living in a wealthy and reasonably stable part of the world.

Because I am a woman, I also understand something of the marginalization that so many people in our communities experience every day of their lives.

I try to bring both of those perspectives to the work I do, remaining aware of the access granted to me as a result of my privilege and the responsibility that comes with that privilege to challenge, push back, open doors to invite others in.

The work I do is intense, challenging, frustrating, interesting, humbling, infuriating, discouraging, moving and inspiring. Occasionally, it is funny. Every bit of it informs every other bit of it.

Some days, it feels like too much, but then I remember the countless women in this country who are subjected to misogynist violence and abuse and have the courage to say “no more” as well as the frontline workers who provide tireless support to them, and I am re-inspired and remember what an honour it is to be able to do this work.

In honouring me with this award, you are also honouring those women. Thank you very much.