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The Canadian Legal System, the Robert Latimer Case, and the Rhetorical Construction of (Dis)ability: "Bodies that Matter?"

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This paper considers Judge Ted Noble's 1997 ruling of the Latimer case in terms of how it rhetorically constructs and privileges the normal, able-bodied status quo, while, at the same time, deconstructs and positions as inferior the "abnormal," dis-abled minority. In this case, Noble not only took the unprecedented step of granting Robert Latimer—the Saskatchewan farmer who killed his twelve-year-old disabled daughter, Tracy, by putting her into the front seat of his truck and poisoning her with carbon monoxide gas—a constitutional exemption, but also attempted to create a lenient category of murder called compassionate homicide. Although Latimer's eventual conviction of second-degree murder in 2001 might imply that justice was done, the violent and decidedly unconstitutional rhetoric employed by Noble points to the way in which the law legitimates normative models of personhood and citizenship that rest, problematically, on the elimination, figuratively and literally, of people, who, like Tracy Latimer, disturb the "normal" vision and would, in Noble's terms, be "better off dead."

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On October 24th, 1993, Robert Latimer took Tracy, his severely disabled, twelve-year-old daughter, put her in the front seat of his truck and poisoned her with carbon monoxide gas. His confession tells how, while his wife and his other children were at church, he sat on the back of his

truck and watched for over half an hour as his eldest child died. Although his confession to the police revealed that his crime was premeditated—he considered "a number of ways of putting her out of her misery but finally settled on putting her to sleep with carbon monoxide gas" (*Her Majesty the Queen and Robert W. Latimer,* 1994. p.294)—his charge was dropped from first to second-degree murder.[1] In this 1994 trial, Latimer was sentenced to the mandatory sentence for second degree murder: twenty years in prison, with no eligibility for parole for ten years. Because Mark Brayford, Latimer's lawyer, successfully appealed this decision, charging the Crown Prosecutor, Randy Kirkham, with obstructing justice through jury tampering, a new trial was ordered. This second trial took place in 1997.

In this second trial, Latimer was also found guilty. However, in this trial, Justice Ted Noble, calling Latimer's crime an act of "compassionate homicide," chose not to sentence Latimer to the mandatory ten years in prison. Instead, he took the unprecedented step of giving Latimer a constitutional exemption, sentencing him to only two years imprisonment, with one of these years to be served on his farm (*R v Latimer, Ruling. 1997 Electronic Publication*). Although this decision was overturned in 1998 and the overturn was upheld by the Supreme Court in 2001, Judge Noble's decision is significant because it reveals the extent to which the law is "thoroughly imbued with relations of power" (Foucault, 1988, p. 60), positing and attempting to make "real" the "ideality" of a just and good society, at the same time as it rhetorically constructs, endorses, and reifies an inherently violent, unjust, normative, and able-bodied reality.

This paper considers the legal construction of this normative able-bodied reality by examining how its authority rests at least in part on the violent

[1]First-degree murder is more serious than second-degree murder; it involves premeditation and is generally believed to involve a "vengeful, hateful and violent act designed specifically to accomplish the death of the victim" (*R v Latimer*, *Ruling*, 1997). In the case of first-degree murder, the "offender is denied parole for 25 years." Second-degree murder is less serious, and, although the "moral blameworthiness of murder can vary from one convicted offender to another," the offender, in this case, is eligible to apply for parole after ten years.

and violating negative legal construction of disability. In other words, these narratives are not only representative of a philosophically abstract way of viewing the world; they have negative consequences in real life, functioning as a form of rhetorical and visual surveillance that, in turn, authorizes "other forms of bodily invasion" (Feldman, 1999, p. 27). From this perspective, Noble's ruling *goes beyond* a justification of what Latimer "deserves" by forcing a consideration of how legal interpretation perpetuates and legitimates a rhetorical violence that has potentially serious consequences for the real, lived experiences of people with disabilities.

Speaking to not only a rhetorical, rational ideology, but also to a visual ideology, these legal interpretations enable a collective imagination that views Tracy and, by extension, all people with disabilities, as almost already dead. By constructing and fixing Tracy in the perpetual pose of pain and disfigurement, these authoritative and authorial legal interpretations constitute an act of imaginative violence that both precedes and looks forward to the material act of violence that is destined to be repeated. In other words, these legal interpretations preserve a gaze that takes as normal the previous violence towards people with disabilities, while channelling, and possibly materializing this violence in the future. In this way, it is possible to argue that the penetration of Tracy's body and life by the visual and narrative examination in the courts exacerbates the violence that has already been perpetuated against her. Working as a form of surveillance, these interpretations, as the Disability-Rights Coalition so accurately pointed out, "threaten the lives of people with disabilities," warning them that those in authority—parents, judges, social workers—do, and may continue to, wield "unfettered power" at their expense (CCD Latimer Watch: "Factum Excerpts," 1998, Electronic Source).[2]

In this respect, Justice Ted Noble's decision legitimates Latimer's "mercy killing" by objectifying and enabling a visualization of Tracy,

[2] While this paper necessarily focuses more on the rhetorical construction of Tracy Latimer, it is important to acknowledge the way in which the media visually depicts both Tracy and Robert Latimer. More work needs to be undertaken in this area.

Latimer's daughter, as a disabled "other," as a body that, in James I. Porter's (2004) words, "appears to lack something essential, something that would make it identifiable and something to identify with" (p. xiii); in this way, Tracy becomes "*too little* a body: a body that is deficiently itself, not quite a body in the full sense of the word, *not real enough* (p. xiii). In refusing to acknowledge the complexities of Tracy's lived experience and by speaking of her only in negative terms, Justice Noble not only constructs Tracy as an absent presence that is not quite "real enough" to be considered a human being, with all the rights that this implies, but establishes a way of thinking about dis-abled "others" that imagines them through the inevitability of and, indeed, even the need for their "compassionate deaths" (*R v Latimer, Ruling. 1997*).[3]

Bound by the rules and regulations of legal discourse, Noble's judgement, on an initial reading, appears to offer a thoughtful, rational interpretation of the Latimer case. Conforming to the requirements for the written justification of legal rulings, Noble demonstrates his understanding of the case in relation to constitutional and criminal law, and in relation to other cases that set precedents for understanding the Latimer case. In this respect, Mark Brayford's use of section 12 of the *Canadian Charter of Rights and Freedoms, (1982)*— "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment" (Canadian Charter, 1982, Electronic Source)—to argue that the mandatory minimum for second-degree murder was, in Latimer's case, "harsh and more than excessive," requires Noble to consider this claim in relation to other section 12 challenges (*R v Latimer, Ruling*, 1997).
Referencing "Laskin C.J.C. in Miller," Noble states that he agrees with Laskin when he argues that "the phrase cruel and unusual [is] a 'compendious expression of a norm'" and, as such, demands that the "punishment prescribed" be considered in terms of the extent to which it "is so excessive as to outrage standards of decency" *(R v Latimer, Ruling,*

[3] Responding to Noble's construction of Tracy, the Disability-Rights Coalition writes that "this Court should not see Tracy Latimer only in terms of her disabilities. Her status as a human being must be paramount. Her disability cannot be used as a justification from departing from fundamental constitutional values. She was a person first and that fact must not be obscured by the detail of her medical problems" (CCD Latimer Watch: "Factum Excerpts," 1998).

1997). While the relationship between decency and the norm is not elucidated, it is possible to assume from Noble's reading of the meaning behind section 12 that, although the state may impose punishment, "the effect of that punishment must not be grossly disproportionate to what would have been appropriate," as that appropriateness is read within a decent, normative framework of understanding (*R v Latimer, Ruling, 1997*).

It is, as the Disability-Rights Coalition argue in their factum for the 1998 appeal, this normative able-bodied framework of understanding that allows Latimer to twist the normative requirement, that he is, as a parent, responsible for Tracy's care, into an insistence that it was "somehow justifiable for him to murder his child (CCD Latimer Watch: "Factum Excerpts," 1998). Subverting the notion that the murder was a "cruel and unusual punishment" for Tracy, whose only crime was that she was alive, and arguing instead that it was a "cruel and unusual punishment" for Latimer, essentially "offend[ing] his Charter rights," is a twist in logic that makes the premeditated filicidal murderer, a victim of his own crime (CCD Latimer Watch: "Factum Excerpts," 1998). This paradoxical use and, I would argue, abuse of legal logic does not escape the Coalition, who point out that, while it might seem logical to argue that "there is no room in Canadian law" for either a "system where sentencing is put on a sliding scale depending on the characteristics of the victim," or for a "doctrine that would literally fix disabled people with an ongoing burden to 'justify their existence,'" in the Latimer case, the burden is put not on Latimer, but on Tracy and her defence, to prove that she was a "normal" human being, who could justify consideration as such in the Canadian courts of law (CCD Latimer Watch: "Factum Excerpts," 1998).

In judging this case, Noble does not, however, articulate how his decision is informed by these normative expectations and assumptions, which operate recursively to assign meaning to both Latimer and his daughter, Tracy, according to "decent" societal norms and liberal expectations and assumptions that favour Latimer and the notion, if not the practice, of mercy killing (Teubner, 1988, p. 4); Noble's privileging of Latimer, as an able-bodied, able-minded father, can be seen, however,

when he references Justice Cory's argument, in Steel v. Mountain Institution, in an attempt to argue that Latimer's earlier ten-year sentence constituted one of the "rare and unique occasions that a court will find a sentence so grossly disproportionate that it violates the provisions of s.12 of the Charter" (*R v Latimer, Ruling, 1997*). Reading Latimer's second-degree murder charge, with its mandatory ten-year sentence, as one of these rare and unique occasions, Noble insists that Latimer's sentence is a "cruel and unusual" punishment that violates Charter mandates . In refusing to take into account how Latimer's premeditated "mercy killing" of his daughter constitutes a cruel or unusual murder that is deserving of justice, Noble trivializes the Charter, and the legal demand, articulated by Justice Cory and reiterated by Noble, that "[t]he test for determining whether a sentence is disproportionately long is very properly stringent and demanding" (*R. v. Latimer, Ruling,* 1997). Constituting not a stringent test, but a lesser test, Noble's reading of section 12, and his subsequent decision to grant Latimer a constitutional exemption, tends to trivialize not only the Charter but, also, I would add, Tracy Latimer's life and, by extension, the equal rights of the disabled, whose lives may well depend on a fair and just ruling.

While Noble's "stringent and demanding" argument clearly supports the belief put forward by Latimer's defence that the "punishment prescribed" to Latimer "is so excessive as to outrage the [normative] standards of decency," it also goes one step further by suggesting that the legal system should support what, "for want of a better term," Noble calls "compassionate homicide" (*R. v. Latimer, Ruling,* 1997). In this way, Noble belies his own claim that he cannot "consider general deterrence or other penological purposes that *go beyond* the particular offender in determining a sentence" (*R, v. Latimer, Ruling*, 1997 my italics). Going beyond a consideration of Latimer and his offence, Noble stresses that if he does *not* grant Latimer a constitutional exemption, "it is unlikely that any set of facts will ever arise where this rarely granted legal remedy can be made available to one who commits an act of compassionate homicide" (*R. v. Latimer, Ruling,* 1997).[4]

[4] In the 1998 appeal, the Coalition stressed "the importance of the deterrent function of the law," which "cannot be overemphasized" (CCD Latimer Watch:

The potential of this ruling to endorse a "legal remedy" for the offender who has committed or who desires to commit an act of "compassionate homicide," points to the ability of law and legal interpretations to, as Judith Butler (1993) argues, "[echo] forth" or reinvoke new laws or new policies that, while embodying the legal authority to discursively make and remake bodies and subjectivities, always ultimately restructures reality in its own normative image (p. 107). In other words, the law affirms and perpetuates the status quo, legitimating certain experiences and certain subjectivities over others by "officially approving and accepting, and transforming into fact" the experiences of the normative majority, while "officially distrust[ing], reject[ing], [and finding] to be untrue" the experiences of non-normative minorities (Teubner, 1988, p. 279).

While this legitimation of the norm makes clear, in Butler's (1993) terms, that "what is *invoked* by the one who speaks or inscribes the law is *the fiction* of a speaker who wields the authority to make his words binding, the legal incarnation of the divine utterance" (p. 107), it also suggests law's ability to constitutively endorse and legitimate "organized, social practices of violence," both a "violence which has already occurred" (as in Latimer's case) and a violence which "is about to occur," or be repeated (p. 107). Evidence of this repetition can be seen in the increasing support for and the growing occurrence of assisted-suicide or mercy killings in Canada (Cover, 1995, p. 203).[5]

"Exemption Quashed," 1998). To support this point, Grant Mitchell's speech made at the vigils for Tracy Latimer was quoted: "As a parent of a disabled teenager, I need to know that my daughter, already made vulnerable by nature, will not be made even more vulnerable by our laws. The *Charter* s we all have equal protection of the law, how else to measure that 'equal protection' than by the criminal liability of those who commit the crimes—the offense they are found guilty of and the sentence they receive. That is what deters" (CCD Latimer Watch: "Exemption Quashed," 1998).

[5] In this respect, Dick Sobsey points out that "in the years ensuing since Tracy's murder, the community of persons with disabilities has witnessed more killings: Ryan Wilkieson, Katie Lynn Baker, Charles Blais, Andrea Halpin. The murder of Tracy Latimer was not an isolated incident" (CCD Latimer Watch: "Exemption Quashed," 1998). Interestingly, in his judgement, Noble himself cites a few such cases. Although these cases do not relate directly to the Latimer

What interests me here is how this violent repetition, contained within the legal narratives, the visual representations, the judgments and public interpretations of this case, creates the circumstances for what Allen Feldman (1999) calls "the circumscribed and enforced space of the politically real" (p. 37). The ideological rationality that informs Judge Noble's support for Latimer and the practice of compassionate homicide not only lends these acts credence, but attempts to enforce an acceptance of them in real-life practices. An examination of how Noble imposes this meaning, and how this meaning functions ideologically to establish ways of seeing and knowing that perpetuate violent acts against those who, like Tracy Latimer, are "*repeatedly* assumed, whereby 'assumption' is not a singular act or event, but, rather, an iterable practice," to be "better off dead" is informative of a political agenda that devalues people with disabilities (Butler, 1993, p. 108).

In practical terms, because Noble's desire for a "stringent and demanding" examination of this case constitutes in large part a recourse, or a number of recourses, to a legislative norm, he reiterates previous citations made by Gonthier J. in *R. v. Goltz* and by Lamer J. in *R. v. Smith*. These citations demand that, in section 12 challenges, the "court must first consider the gravity of the offence, the personal characteristics of the offender and the particular circumstances of the case" (*R. v. Latimer, Ruling,* 1997*).* This context will supposedly allow Noble to judge whether the mandatory ten-year sentence "prescribed by law" is, in Latimer's case, "grossly disproportionate" (*R. v. Latimer, Ruling,* 1997*).*

In considering these facts, Noble pits the rights of Robert Latimer against the rights of his daughter, Tracy. Refusing Kirkham's depiction in the first trial of Latimer "as a cold-blooded killer . . . [a] foul, callous, cold, calculating" man, who is "not motivated by anything other than making

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case, in that his examples document the assisted-suicides of aged or terminally-ill people, he uses them as evidence that Latimer, similar to the perpetrators of the other cases, deserves a minimal sentence. On another note, this increasing support for assisted-suicide or mercy killings is also seen in the United States, as can be seen in relation to the Terry Schiavo case. The public support for her husband's desire to let her die by starvation and dehydration can be paralleled to the public support for Latimer in Canada.

his own life easier" (*Her Majesty The Queen and Robert W. Latimer,* 1994. p. 355), Noble promotes instead the image of Latimer as a model citizen: a "responsible and hard working farmer . . . a devoted family man with a loving and caring nature . . . a caring and responsible person, . . . and a loving and protective parent" (*R v Latimer, Ruling,* 1997).

In keeping with this character reading, Noble rejects the accusation made in the first trial that Latimer killed Tracy because she was disabled. Stressing that Latimer was a loving, protective parent, "devoted to this child" and her care, Noble argues repeatedly that all the evidence indicated that Latimer's concern was not for Tracy's disability, but for her pain. In a paragraph that begins with the question, "[w]hy did he do it?," Noble stresses that Latimer's "only concern was Tracy's ongoing pain" (*R v Latimer, Ruling,* 1997).

Noble, however, in a similar way to Mark Brayford, Latimer's lawyer, is unable ultimately to separate Tracy's pain from her disability. In arguing that Latimer was motivated by "his concern for her pain which he saw flowing from her illness," he conflates, unintentionally, illness and disability, suggesting that they contributed not only to her pain, but to her "slowly but steadily deteriorating health" (*R. v. Latimer, Ruling,* 1997). In doing this, Noble, echoing Brayford, reiterates only a superficial pseudo-medical expertise that ignores the fact that cerebral palsy is not an illness, but a non-progressive condition affecting body movement and muscle coordination. The claim that Latimer killed his daughter solely on account of her "unremitting" pain can be read more accurately as an attempt to first provide a loving context for Tracy's murder, thereby making it acceptable and, second, as a political attempt to avoid accusations of discriminative violence against people with disabilities. In this respect, Latimer's claim that he felt "he must do his *duty* as her father to relieve her of [the] prospect" of her "present and future pain" can only be read in terms of an attempt to use his relationship with Tracy to make his underlying discrimination against the disabled palatable and, of course, political (*R v. Latimer, Ruling,* 1997).

While Latimer is not portrayed as being in need of any rehabilitation for doing what he perceived to be his "duty" as a father, Tracy is figured

here as being beyond rehabilitation, and beyond any meaningful identification outside of her physical disability and outside of her pain and inescapable suffering.[6] The cumulative effect of this debilitating discourse results in a construction that imagines Tracy as a metaphor for suffering and pain. Known through her "present and future pain" and through the unimaginable "extent of . . . [her] suffering," Latimer's decision to "alleviate her suffering" by "[taking] the matter of Tracy's pain into his own hands" in order to "[put] her out of her misery" becomes understandable precisely because she ceases to be a person in the full sense of the term, lacking "something essential, something that would make [her] identifiable" as human in the "normal" sense of the word (*R v Latimer, Ruling,* 1997).

This metaphorical construction of Tracy imposes a reality that refuses any other way of knowing her. The repetitious, consistent representation of her as non-human, in all her many dis-abled forms, speaks to a political agenda that utilizes the language of metaphor to create a visual "realist mode of depiction and perception" (Feldman, 1999, p. 43). This depiction clarifies and reifies Tracy's place in "a hierarchy of credibility and fact setting," while also, concomitantly, establishing as an acceptable methodology, "a public form of truth claiming and depictive legitimation" (p. 43). Reading and visualizing her as a helpless baby, an animal, or as a "pain-filled bundle of needs" refuses to acknowledge either her mother's claim that she was a "very happy, very happy little girl" (*Her Majesty the Queen and Robert Latimer,* 1994. p. 331) or the entries in Tracy's school communication book that documented her "good times"—"eating, sleeping, participating in school and family activities, playing, making choices and being a little mischievous" (Enns, 1999, p. 34)—and enacts a rhetorical and visual violence that is a prelude to accepting the inevitability of her actual physical death. This violence is imagined not only metaphorically by reducing Tracy to her pain and suffering, but also discursively through her construction as an object of

[6] Again, a parallel can be made to the Terry Schiavo case. It is only when it is clear that any attempts at rehabilitation are not going to restore Schiavo to her former "normal" self, that her husband gives up, and starts lobbying for her death.

pseudo-scientific inquiry. In this construction, she becomes known through a rhetoric of mutilation that paradoxically deconstructs her in an attempt to recreate her as an always-already dismembered body: as some-"thing" not even her father could put back together again.

In order to stress the "enormity of [Latimer's] task" in caring for Tracy, Noble summarizes the surgical operations that Tracy undergoes throughout her life, documenting how, at the age of four, an operation "to cut her muscles and tendons" meant that she was "left with a flail limb," how at nine years she was "placed in a cast from chest to toes," and how by 1992, "her body had become so twisted out of shape that the surgeon placed steel rods in her back to straighten her body." Known through her "radical [surgeries]" (*R v Latimer, Ruling.* 1997)—her cuts, body casts, rods, and resulting debilitating pain—and known synechdochally through her flail limbs, her dysfunctional hips, back, head, arms, muscles, joints, and tendons, Tracy is visually and imaginatively taken apart. In this rhetoric she is, as in "real" life, "so twisted out of shape" that the reader is led to believe that her condition is not only deteriorating (*R v Latimer, Ruling, 1997*), but also that she constitutes a body that is, in James I. Porter's (2004) terms, only "deficiently itself" (p. xiii). In this way, it can be argued, that Tracy was living a torturous life, a living death.

Noble's rhetoric supports Latimer's attempt to put Tracy "out of her misery," justifying her "actual" death, while providing a context for thinking about other offenders of what Noble calls, "euthanasia-type mercy killings" of the "severely disabled" (*R. v. Latimer, Ruling,* 1997). Because Noble suggests that those who commit "the grave act [of] murder," killing out of "self interest, malevolence, hate or violence" and those who kill for "caring and altruistic reasons," assuming the role of "surrogate decision maker[s]," represent widely different levels of culpability, he is able to argue, by analogous extension, that they warrant the creation of a new category of criminal law: one that falls under the rubric of "compassionate homicide" (*R v Latimer, Ruling, 1997*).

According to Judge Noble, this lenient move to excuse the perpetrators of "mercy killings" is supported by public opinion. Claiming that the

first trial's imposition of the mandatory minimum ten-year sentence for second-degree murder provoked "an unprecedented public reaction against the severity of the punishment," Noble argues that "there is considerable evidence that this case and the life sentence without parole for ten years imposed (or to be imposed) on Mr. Latimer is seen by the public who responded in this manner as an outrage" (*R v Latimer, Ruling,* 1997). He cites here, as evidence to support his claim, "hundreds of letters from all over Canada" that "protested the harshness of the mandatory sentence." Some of these letters, he writes, "came from people who were themselves handicapped. Some came from church groups" (*R v Latimer, Ruling,* 1997). These protesters, according to Noble, were incensed by the "injustice of [Latimer's] conviction, but more particularly [by] the harshness of the sentence required by law" (*R v Latimer, Ruling,* 1997).

Here, Noble is guilty of making the logical fallacy of "converse accident:" assuming that what is true for a particular group of people who support Latimer, is true for *all* Canadians (Copi & Cohen, 1990, p. 100). From a perspective that values the lives of people with disabilities—perspectives put forward by numerous Canadians and by the Disability-Rights Interveners in the Latimer case—leniency for Latimer constitutes a dangerous injustice in that it sets a precedent for how people with disabilities will be viewed and treated under the law. Additionally, a ruling that advocates leniency for Latimer constitutes a violation of the *Canadian Charter of Rights and Freedoms* (1982). Using section 12 of the Charter to favour Latimer by circumventing Canadian criminal and minimum sentencing laws overrides section 15, which guarantees disabled people equal protection under the law.[7]

In this respect, it is possible to understand Noble's attempt to create a new category of homicide through the manipulation of Charter mandates and through the elicitation of public support, not only as

[7] Section 15 of the Charter (1982) reads, "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

examples of fallacious interpretation and reasoning, but also as an example of what Copi and Cohen (1990) call, a "convenient deception" (p. 101). This largely unconscious deception envisions, calls into being and legitimates what Robert M. Cover (1995) calls a "nomos" or a "normative universe" (p. 5). While law's creation of this normative universe is premised on a desire to build a "better world," it does so, in Cover's terms, by establishing binary relationships that work to "create and maintain a world of right and wrong, lawful and unlawful, of valid and void" (p. 5). In doing this, law is inattentive to the way in which these binaries, which are always read in hierarchical relation to one another (love and pain, for instance), promote a violence that negates the life of the "other." If, for example, Latimer's mercy killing is seen as being right, Tracy's life must be wrong; if Latimer's actions are considered lawful, then Tracy's life must be considered unlawful; if Latimer's life and his able-bodied perspective is valid, then Tracy's life and the perspective of people with disabilities, precisely to the extent that they disturb the norm, must, according to Cover's logic, be voided.

Because Noble's ruling establishes an essential binary between the able-bodied and the disabled, his attempt to create a just interpretation of the Latimer case can be read, through an examination of his omissions and assumptions, as indicative of the way in which law, through its use of language and representational practices, and through its tendency to silence perspectives and deny individual experience, perpetuates and prescribes a cultural violence (Sarat, 2001, p. 4). Because this violence is always already contained within the normative structures and schemas that mask violence with moral and ethical imperatives or justifications, it is difficult to see clearly the power that this violence presupposes. From this perspective, the disabled body "provide[s] the necessary "outside," if not the necessary support, for the bodies which, in materializing the norm, qualify as bodies that matter" (Butler, 1993, p. 16). More specifically, an analysis of the legal materialization of this norm, as it played out in the Latimer case, and Judge Noble's decision to grant Latimer a "constitutional exemption" and promote a new category of acceptable murder called "compassionate homicide," forces a consideration of Tracy's body, albeit after her life was taken in an

untimely fashion by her "loving" father, as a body, and, concomitantly, a life, that does indeed "matter."

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