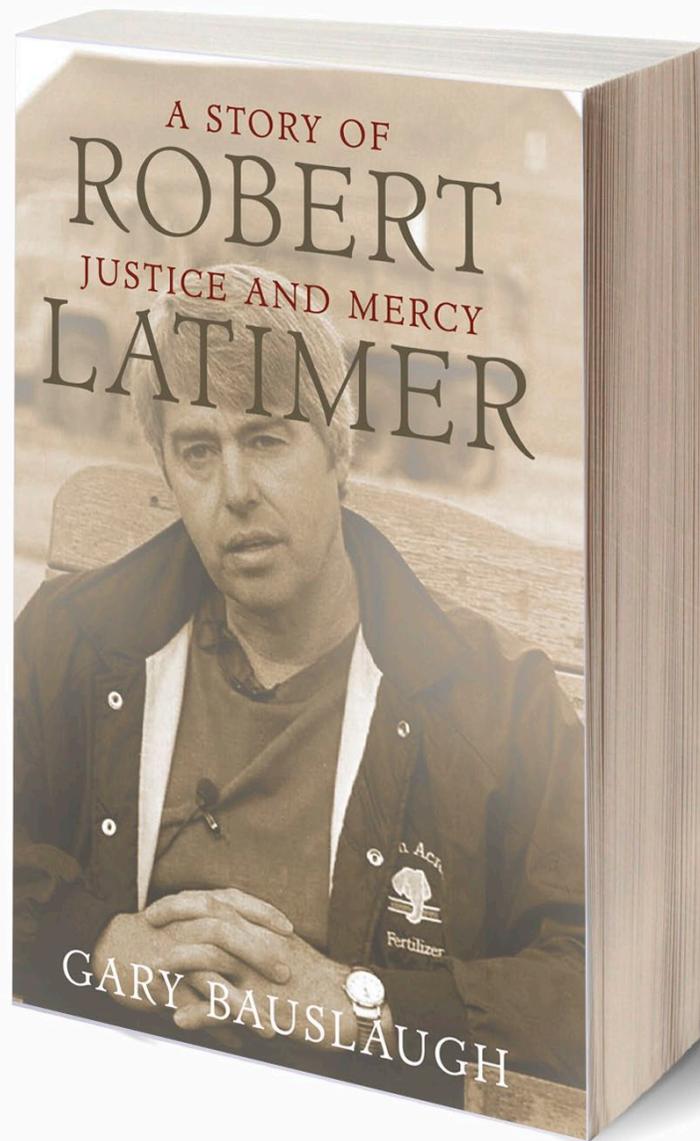


# STUDY GUIDE

## ROBERT LATIMER A STORY OF JUSTICE AND MERCY

GARY BAUSLAUGH



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# INTRODUCTION

Robert Latimer ended the life of his ill and disabled daughter, Tracy, on October 24, 1993, in what soon became Canada's most famous case of mercy killing. Although there has been extensive press coverage of the story for the past eighteen years, this is the first and, to date, only book about the case. The author not only examines the story of what happened, the legal proceedings, and Latimer's time in prison, but also gives readers a personal account of his relationship with Latimer and an indictment of what he sees as a flawed legal system. There are many interesting themes and issues for discussion that arise from the case.

## THEMES

**MERCY:** The nature and consequences of acts of mercy.

- Was ending Tracy's life an act of mercy?
- Should the justice system have been more merciful in its treatment of Latimer?

**PERSONAL FREEDOM AND AUTHORITY:** The interaction between freedom to do as we please and the need for law and regulations.

- To what extent should people be allowed to make decisions regarding their own lives?
- What about decisions regarding the lives of family members?

**VIRTUE AND THE LAW:** Are good deeds always the same as lawful ones?

- Should the justice system consider the motivation for a crime? Does it make a difference if an illegal act is committed out of human kindness?
- Do we have any recourse if strict application of the law results in an injustice? Should there be any recourse?

**MORAL OBLIGATION:** The need to examine what we ought to do.

- Are we obliged to help others when doing so puts us at risk?
- What considerations should we make when assessing the morality of an act such as mercy killing?

**CHANGING LAWS:** What should we do about laws that seem unjust?

- Lawyers often say that "hard cases make bad laws." Should we just accept the unfairness of certain laws if such unfairness arises only in rare and unusual circumstances?
- Should laws reflect the views of the majority? What weight should be placed on views passionately held by a vocal minority?

## **EUTHANASIA:** Is ending another human life ever justified?

- Is it ever right to relieve suffering by ending or helping to end another person's life?
- Assistance in dying (though still illegal in Canada) usually involves the informed consent of the dying person. If one accepts the morality of this — that people in hopeless suffering are entitled to the relief of death — what about cases like that of Tracy Latimer, who could never have given consent (or even understood the question)? Should unconsciousness or disability prevent people from having access to such relief?

## **ESSAY AND DISCUSSION TOPICS:**

- Did Robert Latimer make a wise decision in regard to his daughter, Tracy? What factors should we consider in making this judgement? Is it possible to make such a judgement?
- Robert Latimer has been criticized for not involving others in his decision-making process. Is this a valid criticism?
- Setting aside the Latimer case, assume that you are faced with a situation where someone is enduring hopeless, terrible suffering and only you can end that suffering by ending his or her life. Would you consider doing so? What factors would you consider? Are there any circumstances in which you would consider doing this? (See the poem "David" by Earle Birney.)
- Civil disobedience entails making a statement by defying what one perceives to be an unjust law, and then accepting punishment to demonstrate that the illegal act was not simply a self-interested one. How did Latimer's act differ from an act of civil disobedience? Should this make us feel differently about what he did?
- Some believe that Robert Latimer's problems were compounded by his lack of legal sophistication. His lawyer referred to him as "a fish out of water" when it came to legal matters. He initially refused legal help, thereby compromising his subsequent defence; and he sought no legal help for his disastrous initial Parole Board hearing. Is there any way in which we could ensure better protection for the legally unsophisticated?
- A prosecutor's role is not, as is often assumed, to seek convictions, but instead to seek truth and justice. Some believe that the prosecutor in Latimer's first trial was unnecessarily aggressive, and created the injustices that ensued. How could we better regulate the behaviour of prosecutors to ensure that seeking truth and justice is a priority?
- There is a striking difference between the conditions under which trials are conducted (a jury of peers, close involvement of legal counsel with cross examination of any claims by the prosecution, no requirement to speak on one's own behalf) and the way in which parole hearings are conducted (a jury of political appointees, no cross examination of interrogators, requirement to testify on one's own behalf). Is it possible to justify this difference? If so, what are the justifications?
- Much of the concern about the treatment of Latimer concerns the length of his sentence — the ten-year minimum for murder. How might this have been mitigated? Should there be new provisions for "compassionate homicide"?
- What are the arguments for and against jury nullification? What do you think of the Canadian solution to this issue: juries can nullify the law but defence lawyers cannot ask them to do so?

- Robert Latimer’s defence was based on the idea of “necessity,”—that is, that there was no reasonable alternative to relieve Tracy’s pain. He still feels that this argument should have prevailed, and that the reason it did not was that the prosecution provided faulty evidence about the availability of a “more effective pain medication” for Tracy. Do you think he has a case for a new trial? Do you think it is likely?
- What do you think about more progressive end-of-life legislation? Should any new law permit both assisted suicide, which implies consent, and euthanasia for cases like that of Tracy, where consent is not possible?

## ADDITIONAL SOURCES

- Latimer’s website, [robertlatimer.net](http://robertlatimer.net), has many reprinted articles as well as details about Latimer’s case for a new trial.
- The most complete account I have found on jury nullification is in a book by Clay S. Conrad, *Jury Nullification: The Evolution of a Doctrine*, Carolina Academic Press, 1998. Much other information can be found on the Web.
- The Earle Birney Poem “David” was published in his collection *Ghost in the Wheels*, published by McClelland & Stewart, Toronto, 1977. It can also be found online.
- Many other references are given in the “Notes” section in *Robert Latimer, A Story of Justice and Mercy*.

## AUTHOR’S AVAILABILITY

Gary Bauslaugh will be available for discussion of issues raised in his book to any groups buying ten or more copies from the publisher. Discussions will usually take place by telephone or e-mail, but an in-person discussion may be arranged, if feasible. Please contact the publisher at [promotion@lorimer.ca](mailto:promotion@lorimer.ca) for more information.