

# Media Ethics and Criminal Justice

**T**he influence of the media, both print media and broadcast television, from the networks and cable television, cannot be doubted. The media, as Roger Silverstone (2007) notes, is “tightly and dialectically intertwined with the everyday. We have become dependent on the media for the conduct of everyday life” (p. 5). Numerous studies have shown that most people gain their knowledge of events from the media, and therefore the selection and shaping of news by the media is a critical element in forming and modeling public opinion on most topics, including criminal justice. Indeed, Silverstone suggests that the worldwide media, in an age of globalization, constitute a “site for the construction of a moral order” (p. 7). Lawrence (2000: 91) agrees, noting that the media police the boundaries of what is considered morally and socially acceptable behavior, and identify transgressions as news. The deviant and the unpredictable constitute “social and moral disorder stories” defining propriety, and in this manner, the media articulate public morality. For Jack Katz, crime stories provide the material “for a literal working out of the moral perspectives that must be applied to dilemmas of everyday life” (in Greer 2010: 234).

The media decides what is newsworthy, and crime ranks high on that scale. The mediated experience of crime—as opposed to actually experiencing it in reality—represents most Americans’ experience of crime. Ray Surette (2011: 25) notes that in modern society, the mediated crime event displaces the actual event, and the vicarious pleasure of seeing crime on television or reading about it from a place of safety and security is far preferable to being victimized. Yvonne Jewkes (2011: 41) explains that the media version of reality is determined by two factors: (1) the mediated portrayal of reality fashioned by the news-production processes and (2) agenda setting, that is, the assumptions of media professionals about their audience that cause them to select some items as newsworthy and others not, and determines how a story is framed.

The media construction of crime will define what are thought to be the causes of crime, what acts are regarded as criminal, and what policies of crime control should be adopted because media constructions of reality represent crime for legislators and criminal justice policy makers. For example, the new crime of “road rage” is a media construction (Surette 2011: 45), and the media can elevate the seriousness of the crime as it did with driving under the influence (DUI). As Surette observes (2011: 45), prior to the 1980s, DUI was seen as an individual problem, was not zealously prosecuted, and lacked real public interest. Then, new claim makers appeared in the form of Mothers Against Drunk Driving (MADD) to reconstruct DUI as a crime committed by “killer drunks” and to socially stigmatize anyone drinking while driving. With media assistance, MADD succeeded in characterizing drunk drivers as a new menace to society for whom laws had to be made tougher.

Within the context of crime as entertainment, the media promotes the notion that all crimes can be solved using forensic science methods as in the *CSI* police procedural series and its spin-offs. The construction of the crime scene investigator comprises unlimited resources, impossible

forensic test times, and distorted depictions of actual crime scene investigations (Surette 2011: 95). Nevertheless, programs like *CSI* influence juror expectations about evidence. For example, the absence of forensic evidences connotes sloppy police work or even innocence and causes jurors to give less weight to eyewitness evidence. Juror expectations of the evidence that will be presented at trial are shaped by multiple exposures to *CSI* programming to the extent that forensic evidence becomes reified and cannot be questioned.

Finally, the media represent a distorted picture of the courts as soft on crime and obsessed with technicalities that free the guilty and the dangerous. The legal system is depicted as an obstacle to crime fighting with complex procedures and trials and dramatic adversarial contests. In reality, there is little drama, few accused actually go to trial, and unexciting plea bargains are the norm (Surette 2011: 106).

What are the ethical responsibilities of the media in its reporting and presentation of crime and criminal justice? What images of criminality do the media deploy, and how far do they represent the reality of crime and justice? Does media coverage of crime enhance fear of crime, such as in moral panics, and thus lead to greater social control? How does the criminal justice system interact with the media, and to what extent do criminal justice agencies seek to manipulate the news to meet their perceived needs? Do the media act ethically in the representation and reporting of crime? These key issues and associated questions of ethics and media responsibility will be explored in this chapter.

Klaidman and Beauchamp's *The Virtuous Journalist* (1987) offers an appropriate framework for this discussion of media ethics and criminal justice. Noting the special position of the media under the U.S. Constitution and the familiar refrain "freedom of the press," the authors argue that in overall ethical terms, the issue of limits to the freedom of the media is determined by competing moral rights—that media freedom is constrained by the rights of others (p. 120). Thus, media freedom may be overridden by the competing moral right not to be defamed or by other rights. Often, there will be controversy about which rights are in the balance and which right has the greater moral weight. Klaidman and Beauchamp take the view that journalists ought to make the necessary ethical decisions themselves instead of adopting the approach that a journalist or broadcaster has absolute freedom to publish anything unless the courts rule otherwise (p. 12). They argue that leaving the issue to be decided by the law amounts to abnegation of responsibility for moral decision making and designates the issue as one of law rather than morality. Thus, they call on the press to develop procedures to ensure that this balancing of rights and interests will be accomplished wisely. As noted in Chapter 1, it is important not to confuse legal issues with moral issues; as Klaidman and Beauchamp put it, "Although the law is often concerned with moral problems, it is not the basic repository of our moral standards and values" (p. 12). They give the example of a journalist who may not be legally liable for libel but may still bear moral responsibility for that libel. Thus, inventing facts for a media story may not attract a legal penalty but is still morally problematic. This occurred, for example, when Janet Cooke made up a story about juvenile drug abuse; her actions were not illegal, but few argued they were morally correct. In a newspaper article titled "Jimmy's World" that appeared in the *Washington Post* on September 28, 1980, Cooke wrote a gripping profile of the life of an 8-year-old heroin addict. The story generated a high level of sympathy among readers, and the mayor of Washington, D.C., organized an all-out police search for the boy, which was unsuccessful and led to claims that the story was fraudulent. Cooke received a Pulitzer Prize for the story, which she returned after her deception had been uncovered.

Klaidman and Beauchamp (1987) suggest that virtuous traits are critical in a profession such as journalism, where stories are often produced in haste and under pressure of events. They propose that cultivating moral virtues ought, therefore, to be an ongoing process within the media so that fundamental virtues such as honesty and trustworthiness are embedded and operationalized in stress situations. They also propose that reporters and editors should foster the virtues of "fairness, truthfulness, trustworthiness and nonmalevolence (avoiding harm)" but do not see a place for "tenderness and compassion" (p. 19). (See Chapter 12 in this volume for a discussion of virtue ethics.) In their account of a "the virtuous journalist," the authors discuss

the following virtues: truth, avoiding bias, avoiding harm, serving the public, maintaining trust, escaping manipulation and inviting criticism, and being accountable. They note that in the media, fairness seems to subsume other discrete virtues incorporating impartiality, bias, incompleteness, imbalance, and the like (p. 21). In addition, fairness links to competence because “standards such as fairness and accuracy are moral dimensions of competence” (p. 23).

Competence is a key issue for the media, and its absence—or any weakness in competence—can be revealed when a journalist is unable to separate his or her personal beliefs from the subject matter of the reporting. Failing to separate notes and writing from source materials can also be problematic because it can result in plagiarism. Competence may be general in the sense that a journalist should possess the skills to cover a multitude of different tasks, such as recognizing a story, telling a story through language well enough to convey its importance to readers, organizing and editing copy, checking facts quickly and accurately, and achieving the correct balance in presenting a story. Specific competence, however, relates to a specific context and a defined task (Klaidman and Beauchamp 1987: 24). Responsibility (e.g., in the use of sources of information) and competence are linked together, and incompetence may be the outcome of a moral failure of responsibility rather than a lack of skill. The journalistic propensity to simplify can also be seen as a mark of competence. As Chibnall observes, news stories must be shaped to meet varying standards of readership ability, and, as he puts it, “good reporting involves ‘pruning down’ the reality of a situation, trimming its rough edges and moulding its shape to fit the pre-existing forms of news” (in Greer 2010: 207).

## ❖ Reporting the Truth

Reporting the truth to the public is fundamental to the role of the media in society as well as a moral responsibility of the media (Klaidman and Beauchamp 1987: 30). It is an element in all journalism codes of ethics; for example, the Declaration of Principles on the Conduct of Journalists of the International Federation of Journalists, adopted in 1954, says, “Respect for truth and for the right of the public to truth is the first duty of the journalist” (Ethic Net, n.d.). However, the concept of the truth in journalism is not unproblematic. For example, there are questions about the scope of truth, about the completeness of truth, and concerning the quality of information that is published or broadcast. What, for example, is the responsibility of a journalist for making sure that information is not alarmist? How much information about a risk such as a health danger is appropriate to give the public? Klaidman and Beauchamp (1987:32–50) argue that in covering stories where the public’s right to know is a determining factor, stories should

- *be substantially complete*—this is the point at which a reasonable reader’s requirements for information are fulfilled. It is essential to present the broader context when reporting on complex issues of legitimate public interest. The reader should be able to apprehend all the material or important descriptions of an event and the report should avoid framing an issue in a particular way. The process of framing news has been explained as “a central organizing idea for news content that supplies a context and suggests what the issue is through the use of selection, emphasis, exclusion, and elaboration” (Tankard, Hendrickson, Silberman, Bliss, and Salma Ghanem, 1991).
- *encouraging objective understanding*—this entails shaping a story so as not to suggest a preference for one set of values over another, presenting the views of experts on both sides of an issue but at the same time not presenting views that are clearly uninformed or absurd. Thus, objectivity connotes balance in the sense that a process is employed that weighs different accounts and again avoids framing an issue in a particular way that would undermine its objectivity. Nevertheless, the notion that news reporting is not laden with values and is objective is highly questionable. As David Kidd-Hewitt (1995) observes, the media function “as purveyors of particular social constructions of social reality rather than as objective reporters” (p. 13). Lawrence adds that the notion of the objective professional journalist is firmly embedded in American culture, but journalistic objectivity is something of a myth because, as she puts it,

this meaning of “objectivity” tells reporters that in a world full of competing sources making competing claims, it is best to report information that can be officially verified and make less use of sources and claims that are most likely to invite charges of bias. “Objectivity” thus becomes reporting “what happened” in a way that is least likely to be criticized by those in power (2000: 52–53).

Cost is also a factor, as noted by Edward Herman and Noam Chomsky (cited in Greer 2010: 37), because taking information from apparently credible sources minimizes investigative expense. Thus, for reporters, the most credible sources are official sources, and therefore news accounts are often biased in their favor.

- *be balanced and accurate*—this means developing a story from sound evidence and reporting as fact only information in respect of which there is accurate and sufficient evidence. If there is any doubt as to the accuracy of an account, that doubt should be reflected in the story. Inaccurate reporting can arise where a story unproblematically repeats an initially inaccurate report. Such a situation occurred in New Bedford, Massachusetts, in 1984 when a cheering crowd of onlookers in Big Dan’s Tavern reportedly witnessed a rape. In fact, at the trials of the six alleged rapists, the prosecution alleged that other than the six defendants and the victim, only three people were in the bar, and that the bartender and a customer sought to call the police but were prevented from doing so by one of the six. There was no crowd of cheering onlookers.

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### IFJ Declaration of Principles on the Conduct of Journalists

Adopted by the Second World Congress of the International Federation of Journalists at Bordeaux in April 1954 and amended by the 18th IFJ World Congress in Helsingör in June 1986.

This international Declaration is proclaimed as a standard of professional conduct for journalists engaged in gathering, transmitting, disseminating and commenting on news and information in describing events.

1. Respect for truth and for the right of the public to truth is the first duty of the journalist.
2. In pursuance of this duty, the journalist shall at all times defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism.
3. The journalist shall report only in accordance with facts of which he/ she knows the origin. The journalist shall not suppress essential information or falsify documents.
4. The journalist shall use only fair methods to obtain news, photographs and documents.
5. The journalist shall do the utmost to rectify any published information which is found to be harmfully inaccurate.
6. The journalist shall observe professional secrecy regarding the source of information obtained in confidence.
7. The journalist shall be aware of the danger of discrimination being furthered by the media, and shall do the utmost to avoid facilitating such discrimination based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national or social origins.
8. The journalist shall regard as grave professional offences the following:
  - plagiarism;
  - malicious misrepresentation;
  - calumny, slander, libel, unfounded accusations;
  - the acceptance of a bribe in any form in consideration of either publication or suppression.
9. Journalists worthy of the name shall deem it their duty to observe faithfully the principles stated above. Within the general law of each country the journalist shall recognize in professional matters the jurisdiction of colleagues only, to the exclusion of every kind of interference by governments or others.

Inaccurate reporting is exemplified in media depictions of young black men portrayed as overwhelmingly responsible for crime. Media stereotyping of young black men in this manner has deeply embedded into public consciousness an image of the “young black male as a violent and menacing street thug” (Welch 2007: 276). There is a common perception that most crime is committed by blacks, and it is true that blacks are disproportionately involved in crime. Although making up only about 13% of the population, in 2002 blacks accounted for 38% of arrests for violent crimes and 27% of arrests for property crime (p. 276). As Welch notes, the War on Drugs did much to strengthen the association between blacks and crime, as blacks took to crack cocaine as the drug of choice because of its relative cheapness and easy acquisition. The truth, however, is that whites compose about 75% of illegal drug users, and blacks 13%, a fact not usually incorporated in media accounts of drug dealing and the War on Drugs (p. 279). Discussing media coverage of the War on Drugs, Michael Tonry observes, “Newspapers, television, and movies regularly portray trafficking in cocaine and crackas characteristic of inner-city minority neighborhoods. Any mildly informed person in the late 1980s knew that the major fronts in the drug wars were located in minority neighborhoods” (p. 105).

In a meta-analysis of eight studies of the representation of blacks in local television news in Orlando, Ted Chiricos and Sarah Eschholz (2002: 400) found that while blacks and whites were depicted as criminals at similar rates, when blacks appeared on television in any role, they were more than twice as likely to appear as criminal suspects rather than in positive roles, as compared to whites. The image of the black male as criminal is now so deeply embedded that alleged victims use the persona to enhance fabricated accounts of crimes:

### Images of Black Criminality

In 1995, Maryrose Posner claimed to have been robbed by an armed black male while she and her 2-year-old daughter stood at a bank automatic teller machine. She alleged that a laughing man put a gun to her child’s head and then ran to a waiting vehicle and left the scene with three other black males. She later admitted in court that her story was a complete fabrication and that she had constructed it to get attention from her busy cardiologist husband. Although she later retracted her confession, she ultimately pled guilty to a second-degree charge of filing a false statement.

SOURCE: Rome 2006: 80.

Dennis Rome (2006) presents a process model showing how media imagery creates and blends with stereotypes to perpetuate the image of the criminal black male:

Step 1 ↓

The media constantly disseminate images and depictions of crime; they are largely images of street crime with poor whites and especially blacks shown to be the perpetrators. When the public communicate about crime, they adopt these images.

Step 2 ↓

The public compose conceptual summaries of media depictions of crime for the sake of convenience, and these become symbolic of all crime and criminality.

Step 3 ↓

As the public communicates its received concept of crime, the concept begins to form a reality.

Step 4 ↓

Once the concept is firmly embedded in the mind, indicators of its existence are searched for in the media.

SOURCE: Rome 2006:84.

Jody Miller, Toya Z. Like, and Peter Levin (2006: 112) argue that in the popular media treatment of race and crime, whites are presumed noncriminal by nature, and therefore their crimes have to be explained by reference to life factors such as early childhood traumas, abuse, and psychological factors. A good example is Jeffrey Dahmer, a serial killer who murdered 17 people, whom he dismembered and mutilated, storing body parts in his apartment. While early media depictions used words like *evil* and *monster* to describe him, the media soon began to focus on his childhood traumas to explain his behavior and highlighted his religious conversion from the time of his arrest (p. 116). In the case of black criminals, the same questions are not asked because criminality is assumed in their nature.

Content analyses of crime stories reveal what Surette (2011) terms the *law of opposites*, because the nature of crime, criminals, and victims portrayed in the media is generally the complete opposite of the pattern shown through official crime statistics or victim surveys. The following are characteristics of crime stories regularly found in content analyses:

- Crime stories are a prominent feature of all media.
- Crime stories are overwhelmingly about serious violent crime against individuals, with homicide being the primary crime.
- Offenders and victims in media stories are generally of higher status in society and older than those actually involved in crime.
- The risks of crime are presented as more serious than are described as probable in authoritative official statistical reports or victim surveys.
- Police and the criminal justice system are generally represented in a highly favorable manner, and police corruption is often explained using the “bad apples” analogy rather than as a systematic practice.
- Crime stories focus on special and discrete cases, and the wider issues of causation, policy, and trends receive little or no attention. (Reiner, Livingstone, and Allen 2003: 15–16)

How can unrealistic and distorted media representations of crime be transformed? Greg Barak (1994:237) has proposed a project of “news-making criminology” that would aim to

- demystify images of crime and punishment;
- strive to affect public attitudes and discourses about crime and bring about a public policy based on structural and historical analyses of institutional development;
- allow criminologists to deploy their knowledge and show themselves to be credible voices in public policy making on crime;
- call on criminologists to develop the necessary media skills to participate in dialogues on crime and justice.

Criminologists have been slow to take up this challenge, and as punitive populism has taken the lead on crime control, experts like criminologists have been sidelined in favor of populist narratives that argue against expertise and in favor of so-called common sense approaches.

Robert Elias (1994, 1996) has argued that the media misrepresents the situation of crime victims by distorting the causes and impact of victimization and by presenting victims as passive and vulnerable. There is no doubt that the media has given increasing attention to victims, with the result that victims now constitute one of the key sources through which crime is portrayed and understood in conditions of modernity. The harm caused by crime is equated with the suffering of victims as well as with the potential threat of victimization, and readers are invited to identify with victims. The media has been accused of perpetuating the image of the “ideal victim” by focusing attention only on victims who meet that standard of victimhood (De Mesmaecker 2010). Media decide the relative newsworthiness of victims according to the degree of emotion engendered by a victim’s experience. In this way, the

media promote a stereotypical victim and discount those who do not fit the typification. Thus, media accounts rarely differentiate victims and provide a false image of victimization and victims (p. 251).

Media accounts that engender moral panics such as stories about school shootings, sex crimes—especially those involving children—and specific and unusual cases like the James Bulger case in the United Kingdom amplify deviance and function as advocacy for greater levels of social control (Jewkes 2011: 74). The media no longer simply report the facts of the case but take these cases as exemplars and articulations of wider social issues and concerns, raising the level of public anxiety and generating fears about the forces of evil and threats to social order. Thus, crime comes to be read as a warning that society is in danger of being destabilized unless something be done. The “something” is usually a set of measures that enhance levels of social control beyond what is rational or necessary (see Chapter 7). In this way, the media influence crime-control policies; as Surette (2011) observes,

The media therefore supply a large amount of information about specific crimes and convey the impression that criminals threaten the social order and its institutions with imminent collapse. Media provide less information to help the public comprehend the larger society-wide forces that underlie individual crimes and cases. Rare is the thematic interpretive analysis that places criminal information in historical, sociological, or political context (p. 183).

The media project a consistent message that crime is caused by ruthless predatory individuals who are inherently evil and that they can only be challenged by an unfettered crime fighter. Crime, then, is the product of individual choice, a matter of individual personality, and social and structural factors are irrelevant. The emphasis is on the front end of the justice system: Investigations and arrests promotes policies that favor law enforcement. This simplistic portrayal of crime by the media is accompanied by solutions that involve violence and aggression, widespread use of weapons, sophisticated technology, and heavy punishment (Surette 2011: 186). The media tend to deal in what Jewkes (2011: 49) calls *binary oppositions*, that is, to present events as choices between good and evil, guilt and innocence, and deviant, dangerous, or sick as opposed to normal. These processes of simplification obscure and distort the complex reality of life; for example, a terrorist is designated completely evil, and the problematic of terrorism versus freedom fighting is ignored. Thus, criminals have no redeeming features—they are simply bad and dangerous.

Fear of crime and fear of being victimized by crime are key influences in criminal justice policy making and in the promotion of punitive policies. The media provide a foundation from which fear of crime can be built with its portrayal of serious individual criminal events, “infotainment” programming that highlights violence and aggression, and the morality tale of the crime fighter battling ruthless criminals intent on savaging you and your home. The media “fuel public fears” (Jewkes 2011: 155), but the public should not be seen as absorbing media influences about crime in isolation of their actual lived experience. Thus, in the inner-city areas, it is fair to say that media coverage of crime tends to reinforce what people already know, and what some have actually experienced through having been victimized. It follows that while it is difficult to identify a specific media effect, it is likely that the media play a part in stoking fear of crime simply because our lives are media saturated. As Jewkes (2011) notes, “media images of crime perpetually reinforce peoples’ anxieties; we are, at one and the same time, fascinated by representations of crime and alarmed by them” (p. 157). Many studies have found associations between media consumption patterns and measures of fear of crime (Hope and Sparks 2000:108); for example, heavy viewing of television crime programming is linked to fear of crime and support for “get tough” crime policies, and readers of newspapers who describe violent crimes more often and more sensationally express more fear of crime when responding to survey questions.

## ❖ Avoiding Bias

According to Klaidman and Beauchamp (1987: 60), bias is represented not simply by a distortion of facts or information but by a departure from objectivity that is informed by the values of the writer or editor. Thus, bias should be distinguished from error—for example, when, due to a mistake, some part of a story is omitted with the outcome being a bias in the story. Bias is not the same as superficiality and is not necessarily ideological. Being partisan does not always mean that a story is biased, because partisanship may be completely justified by the particular story. Partisanship will only equate to bias in cases where the underlying partisan values distort a story. As the authors define it, *bias* is “a distorted or unfair judgment or disposition caused by the values of a reporter, editor, or institution. Bias is not necessarily ideological, partisan or manifest over an extended period; and it need not be introduced intentionally” (p. 61).

Given that reporting the news must involve selecting certain events and not others as news, many suggest that the media shows bias because it takes a point of view and shapes the information that constitutes news (Greer 2010). In this sense, news is constructed by the media, which decide what is “newsworthy.” Many studies have revealed that this process involves a series of media judgments based on conventions about what constitutes news—for example, the “news values” discussed by Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts (cited in Greer 2010: 241), which provide the criteria for the practices of journalism and enable determinations of what is newsworthy. Wars and disasters of course rate highly in newsworthiness, as do certain crime stories, especially those involving children. For example, in a study in Australia of sex-offender legislation, noting that requirements for the registration of offenders had often been enacted in response to media accounts of the dangerousness of sex offenders (see Chapter 7), researchers found that newspaper accounts of sex offenders had doubled after the introduction of the legislation. Moreover, the newsworthiness of the subject matter was often enhanced by sensationalist reporting, including the use of dramatic language such as *monster*, *sex fiend*, or *predator* (Ducat, Thomas, and Blood 2009: 156). High-profile stranger cases were given prominence, suggesting that these individuals posed the highest risk despite evidence clearly showing that sex offenders are usually known to the victim. Here, therefore, newspapers provided inaccurate and misleading material about a subject they decided was newsworthy. Homicide is the most likely crime to be reported. One study found that the newsworthiness of a homicide was enhanced when the suspect or victim was white, when a male was the suspect, or when victims were females, children, or the elderly (Pritchard and Hughes 1997: 49). The newsworthiness of a crime can determine the level of police and prosecution resources assigned, and highlighting particular criminal and victims conveys a message about the kind of behavior that matters most in society.

Media representations of police using lethal force undoubtedly influence public perceptions of the police. In their examination of newspaper accounts of police use of deadly force from 1997 to 2000, Paul Hirschfield and Daniella Simon (2010: 156) seek to identify how the media frames such incidents in terms of the threat presented by the victim and the response of police to that threat. Hirschfield and Simon’s analysis of press reports shows that 69.5% of articles supported explanations that the lethal force was justified. These mainly officially sanctioned accounts of incidents stressed the threat presented and the reasonableness of the law enforcement response, and only 16% of articles expressed doubts about the justifications for police actions (p. 165). In one case, a lethal shooting was presented as warranted because the victim had 21 prior convictions for stealing. The media often employ euphemisms that are designed to minimize or play down the harm caused by police. For example, the media can frame a lethal police shooting as “a deviation from legitimate procedures rather than as violence” or may refer to an officer having fired at the victim rather than explicitly stating that he was killed by police (p. 170).

Hirschfield and Simon (2010) contend that the media stereotypically construct police as three types: the professional, the vigilante, and the oppressor. The *professional* exercises the power to use deadly force wisely but is circumscribed by endless rules and regulations; the *vigilante* is

a figure from popular justice who welcomes and is ready to use deadly force against dangerous criminals; and the *oppressor*, especially salient for African Americans, is one who uses legal violence to repress minorities and whose actions can provoke stories of violations of civil rights, calling up images of the civil rights era (p. 157). The killing of Amadou Diallo, who was shot 19 times by New York City Police on February 4, 1999, was something of a watershed in media accounts of police violence. It displaced the stereotypical accounts of the professional and the vigilante and evoked a civil rights framing whereby police were oppressors. Hirschfeld and Simon reveal that, following the Diallo killing, media accounts more often adopted a race angle and that pro-police media strategies diminished significantly especially in the first 6 months after his killing. Generally, post-Diallo, the media began to adopt a more cautious approach to lethal police violence. Victims of police violence are treated less sympathetically by the media than other murder victims, and media accounts tend to present such incidents as a lawful police response to the victims behavior (p. 176).

Lawrence (2000) reveals how media and police collaborate in making crime news, and how media often uncritically accept official police accounts of incidents and reinforce police stereotypes of crime fighting and professionalism. Cooperation between police and the media is now a norm worldwide. For example, in England and Wales, all 43 police forces have departments concerned with media relations. These are staffed by civilians, often former journalists or specialists in marketing. Services provided by these units to the media include prepackaged news materials, press conferences, and media access to police raids (Cooke and Sturgis 2009: 407).

Critical citizen voices are significantly absent in media accounts of police violence (Lawrence 2000: 31), and official accounts by police are privileged by the media. As Lawrence puts it,

Moreover, people who accuse police of brutality are often non-white, are often relatively poor, and often have criminal records. . . . These are not the kinds of people reporters feel most comfortable relying on for "news." Nor are they the audiences for whom many reporters envision producing the news (p. 55).

The media adopt official claims about use of force incidents and frame such incidents as necessary and defensive in nature and as nonproblematic. Of about 8,000 articles on police use of force appearing in the *New York Times* and the *Los Angeles Times* between 1985 and 1994, Lawrence (2000: 43) found that almost 80% relied on official sources for their reporting. Simple news narratives are constructed to omit any complexity, and are based on police and official accounts and are shaped to manage public perceptions (p. 37).

## ❖ Avoiding Harm

The "do no harm" principle is commonly associated with medical ethics, but Klaidman and Beauchamp (1987: 94) link it to the writing of John Stuart Mill who, they argue, devised the principle as a means of determining the validity of limiting individual freedoms. Immanuel Kant contended that we are duty bound to give to others all the respect consistent with the notion of human dignity, that is, treating others as ends in themselves and not merely as a means to further our own goals (see Chapter 10). Kant also argued that we are under a duty to advance the interests of others where possible, because by so doing, we can enhance their capacity to exercise free will. For Kant, then, minimizing harm is an element of a fully constituted moral agent (Plaisance 2009: 105). William D. Ross defined seven essential duties we should exercise as moral agents, such as keeping promises, reparation, and expressing gratitude. He also identified a moral duty to not injure others, which he thought ought to carry substantial moral weight as compared to other moral duties (in Plaisance 2009: 106).

The do no harm principle says that "a person's liberty may justifiably be restricted to prevent harm that that person's actions would cause to others" (Klaidman and Beauchamp 1987: 94).

What is meant by harm? The scope of this is contested, with some arguing that it relates to explicit actions such as violations of liberty or damage to reputation, and others that it includes acts like causing a person embarrassment, or causing harm by insinuation or innuendo. Some contend that an invasion of privacy constitutes harm, even where, for example, the name of a rape victim is obtained from a public record (p. 94). Relying on Joel Feinberg's (1984) notion<sup>1</sup> that a harm is to be interpreted as thwarting, defeating, or setting back an interest, Klaidman and Beauchamp (p. 98) suggest that the concerns of a journalist should include a concern for the public interest even when serving that interest results in harm to a public official. An example of such a story appeared in the *Wall Street Journal* on February 25, 1985, concerning the private life of the director of enforcement at the Securities and Exchange Commission (SEC), John Fedders. The *Journal* reported that he had admitted in divorce proceedings to regularly beating his wife, that he had lived beyond his means, and that his credibility was affected by an alleged cover up of a corporate bribe scheme by a previous client (Jackson 1985). Fedders resigned the day after the story ran, claiming the story would hurt the SEC. Klaidman and Beauchamp (1987: 98) argue that the *Journal* was justified in publishing the story, despite the harm it caused, as it concerned the integrity of a public official and his fitness to serve in that capacity. In addition, a substantial basis for the *Journal's* story had been established before it published its account. Therefore, acts by the media that infringe privacy must be justified by the need to serve a vital public interest. Using disclosures to increase profits by selling more newspapers or to increase the salacious content of a publication are not ethically justifiable acts. As David Archard (1998: 90) notes, a clear distinction must be drawn between a story being in the public interest and a story that interests the public. If the public interest justification is relied on for what would otherwise be an unethical act, the media must specify exactly what public interest is being served and why in a particular case the interest should override a claim to privacy.

In another incident, to pursue a newsworthy crime story, the media seems to have overly intruded into a secluded community and caused it harm:

### A Closer Look

#### Murders in Amish Community

In October 2006, Charles Carl Roberts planned and carried out the murders of five Amish girls, aged 7 to 13. He took them hostage in a schoolhouse and wrote a suicide note explaining how he had been tormented by the desire to molest young girls since the death of his premature daughter 9 years before. When he began to execute the girls, police stormed the school, and he shot himself. Media crews in large numbers invaded the reclusive Amish community, and local media attacked the national reporters for acting disrespectfully and for presenting the community as a spectacle.

SOURCE: Plaisance 2009: 117.

When harm is caused, an assessment of moral responsibility for that harm will usually be made. Moral blame will be ascribed to those who acted carelessly resulting from failure to discharge a morally imposed duty to take care or behave reasonably toward others. An example of a lack of due care is found in the case of Brian Taugher, an assistant attorney general in California

<sup>1</sup>According to social philosopher Joel Feinberg (1984: 45–47) a *harm* is an act that sets back the interest of another, such as a person's reasonable interest in a career, reputation, or privacy. The act of setting back must involve a concrete event that explicitly makes a person's overall state of well-being, or his or her ability to achieve reasonable goals, worse off than if the event had not occurred. It must also have set back significant desires such as raising a family or achieving a long-term project and not a merely trivial interest.

who one day in 1985, without warning, was arrested in his front yard and charged with child molestation (Kaidman and Beauchamp 1987: 102). Seven months later, he was acquitted by a jury. His arrest was based on the story of a 9-year-old girl with no supporting evidence. The press coverage of the alleged molestation may have influenced the decision to prosecute, but it is indisputable that the incident caused great harm to Taugher's reputation and cost him \$50,000 in legal fees. Klaidman and Beauchamp argue that a reasonable standard of care, in line with the do no harm principle, would require more evidence than solely the word of a 9-year-old girl before publishing this story.

## ❖ Serving the Public

The historical account of press freedom in the United States reveals that in return for the special privileges granted to them, the media are expected to provide public benefit in the form of timely, relevant, accurate information that informs the public understanding. As the American Society of Newspaper Editors (n.d.) affirms in its statement of principle, "The primary purpose of gathering and distributing news and opinion is to serve the general welfare by informing the people and enabling them to make judgments on the issues of the time." According to Klaidman and Beauchamp (1987: 131), the effect of the First Amendment is to make the media morally bound to produce public benefits. Nevertheless, they argue that the media are often more concerned with rights than responsibilities.

Serving the public well can also extend to enhancing public knowledge of crimes like homicide and avoiding formulaic approaches in reporting them. In an interesting proposal that would associate homicide reporting with the ethic of care (see Chapter 15), Romayne Smith Fullerton and Maggie Jones Patterson (2006: 304) argue that formulaic crime coverage promotes cynicism and distances the reader from the actual crime and those involved. If the public understanding of a homicide were strengthened, it is argued, the outcome would be an engagement with issues such as social responsibility, reconciliation, and social justice. In its reporting of homicides, the media tend to employ stereotypical images of the helpless victim and the evil murderer that attempt to confine a story within a predetermined story line. As Reiner et al. put it, "Offenders are portrayed not as parts of social relations or structures that the victims or the public are also embedded in, but as pathologically evil" (2003: 31). Would it not be preferable, the authors ask, to conduct "a deeper and more caring probe in to the causes and consequences of crime?" (Fullerton and Patterson 2006: 307).

Serving the public with news has shifted in meaning over time and now connotes not simply a news service but also what Surette (2011) calls *infotainment*, defined as "the marketing of edited, highly formatted information about the world in entertainment media vehicles" (p. 19). Infotainment aggregates aspects of news, entertainment, and advertising. Crime as a subject is ideally suited for infotainment because it represents real events that can be presented in an entertaining manner. According to Surette, as the media, with television in the forefront, became more capable technologically, so the viewing audience became more voyeuristic, and entertainment focused. Satellite technology enables television to screen riots and wars in real time, and surveillance cameras show crimes as they happen on television shows. Surette (p. 20) observes that beginning from the late 1980s, crime related infotainment began to appear on television, and the boundary between crime and entertainment dissolved. Consequently, consumers of news now find it difficult to distinguish crime news from crime entertainment, and one dominant model of responding to crime is supreme within the crime and justice infotainment world: the crime control model. Another new infotainment spectacle is the media trial, most famously associated with the prosecution of O. J. Simpson and now a staple item of mixed news and entertainment, characterized by intensive coverage with live coverage and legal punditry commenting on every aspect of the process and evidence. Surette argues that this mixture of news and entertainment creates a "dramatic mini-series developed around a real criminal case" (p. 24).

## Summary

The articulation between media, crime, and ethics is complex and multifaceted. Ethical standards for the media, similar to the standards explored in this volume for police, judges, and others in the criminal justice field, sometimes give way to the realities of the workplace. There is fierce competition between media outlets to capture market share and retain it, especially among newspaper tabloids, and crime stories can play a determining role in profit making. The nexus between crime and newsworthiness is well established, and the influence of the media in designating what counts as crime to the ordinary citizen promotes racial stereotypes and inverts the real and accurate representation of criminality. Instead of disseminating information that will inform and educate citizens about crime, the media simplifies events and circumstances and creates narratives that present polar opposites and eliminate all complexity. The media fuel moral panics and public fear of crime and distort policy making so that rational informed strategies are replaced by ad hoc populist responses. In terms of its ethical responsibilities for reporting the truth, avoiding biases, avoiding harm, serving the public, and maintaining trust in the field of crime, the media record is clearly imperfect. When the media play such a significant a role in defining crime and criminality, one question that must be asked is, whose interest is being served by such reporting?

## PART II

# The Application of Ethical Theories to the Criminal Justice System

In Part I of this book, concrete ethical issues within the criminal justice system are presented and contextualized. The role of moral philosophy in answering the questions “What is right behavior?” and “How ought I to live?” has been explored, and the meaning of these questions addressed. We saw in Chapters 2 through 8 that professionals working in the criminal justice system may have to confront ethical issues and ethical dilemmas. Part of the process of responding to ethical issues and dilemmas involves reflecting on ethical theories and applying them.

Part II presents various ethical theories that can be applied to the resolution of ethical dilemmas. The leading ethical theories are deontology and consequentialism (utilitarianism), although virtue ethics has found increasing acceptance among moral philosophers, sufficient even to raise its prominence to the level enjoyed by deontology and consequentialism. This theoretical discussion extends beyond these principal theories to include the classical Greek theories of hedonism and Stoicism as well as the theory of ethical egoism. The theories of social justice and feminist ethics are represented in the works of John Rawls and Carol Gilligan, respectively. As explained in the Preface, the format of the book is a deliberate inversion of the usual presentation. The aim is to ensure a grounding in the practical issues before grappling with ethical theory and applying those theories to ethical issues found within the system. Those who prefer to focus on philosophical theory before examining the ethical issues that can arise in the criminal justice system are encouraged to reverse the order of the book to accomplish their purposes.

In Part II of this book, each ethical theory will be examined in some detail, and the leading theories of utilitarianism, deontology, virtue, social justice, and the ethic of care will be incorporated

into specific case studies as part of an analysis of criminal justice ethical issues. These analyses will help illustrate the concrete application of these ethical theories in the resolution of ethical issues. Neither the classical Greek theories nor ethical egoism are generally considered viable ethical theories today.

In this introduction to Part II, an attempt will also be made to demonstrate how philosophical notions about ethics have developed and changed over time. This brief discussion of present-day thinking about ethics includes the postmodern perspective. As explained in Chapter 1, humans employ concepts of morality as an approach to trying to make their lives better. The aim is to create a social framework that guarantees the conditions required by human beings to live good lives. Morality formulates the principles that guide our evaluations of individual lives, of human action, and of social institutions as right or wrong, good or bad, as they bear on the goodness of human lives. It involves our attempt to shape a world that is not particularly hospitable to our endeavors, to adjust our endeavors to what is unchangeable in this world, and to harmonize our often conflicting individual endeavors so that we can pursue them with minimal interference from one another (Kekes 2000: 18). Morality is a collection of different ways of performing in different situations; these ways develop as we struggle with the many problems we meet in daily life (Wallace 1996: 14). Morality should not be seen as something separate from specific ways of acting, because our knowledge of morality is caught up with our decisions about how to act in our everyday lives. We do not learn how to be a good family member or friend and then learn about the virtues of honesty and loyalty, because the two go together.

Consequentialism (utilitarianism) and deontology are contrasting ethical theories. Consequentialist theories contend that the right thing to do always depends on the goodness of consequences. Utilitarianism is a consequentialist moral doctrine, because, for the utilitarian, morality is solely a matter of consequences (Hinman 1998: 163). In contrast, deontological theories focus on considerations other than good and bad effects. The term *deontology* is widely used in moral philosophy, yet there is no standard definition of the term. It is more straightforward to simply say that deontologists are those who reject consequentialism. Generally, deontology connotes a constraint, and deontologists, in contrast to consequentialists, believe in constraints or rules that cause moral barriers in the promotion of the good (Kagan 1998: 73). Those who favor a deontological approach tend to believe that acting ethically or morally involves accepting constraints or rules that place limits on how we pursue our own interests as well as on the pursuit of the general good. Deontologists argue that the consequentialists' pursuit of furthering their own interests or pursuing the general good fails to provide morally sufficient reasons for taking action (Davis 1991: 205). They believe that certain acts are wrong in themselves and morally unsupportable, and that such acts are an unacceptable way to pursue any ends, even those that are morally good.

Deontologists take the view that to act rightly, persons must first of all refrain from doing things that can be said to be wrong before the fact; these wrong acts are defined by what are variously called *rules*, *laws*, and *constraints*. For a deontologist, it is not the wrongness of the consequences of a particular lie or of lying in general that makes it wrong to lie. For them, lies are wrong because of what they are, and they are therefore wrong even when they produce good consequences (Davis 1991: 207).

Deontological theorists claim that the rightness or wrongness of an act depends entirely on the kind of act that has occurred and not on its consequences. Accordingly, for example, it is right to keep one's promises because, by its very nature, a promise must be carried out regardless of a person's inclinations or the effects that carrying it out will have. Deontological theories are sometimes called duty ethics, because they stress ideas of obligation and duty.

As Geoffrey Scarre (1996: 13) points out, often consequentialist and deontological approaches will, in practice, lead to similar moral conclusions. For example, a deontologist would argue that the act of breaking promises or stealing goods is wrong because such acts break the moral law or because they infringe on people's right to be told the truth or the right of persons to keep their private property. A consequentialist would agree that promise breaking and theft

are morally wrong, but his or her judgment would rely on the negative impact of these practices on human welfare, not on the intrinsic wrongness of these acts. A conflict will arise, however, in those exceptional cases where performing an act normally considered to be wrong is likely to increase the utility or benefit achieved in the outcome.

Julia Annas points out that

there has been a growing sense that there is something deeply inadequate about the view that when we systemize theories about our ethical view we are faced with the traditional option, a simple choice between consequentialist and deontological ways of thinking. If this is our option, then we must choose between calculating consequences to discover the right way to act, or rely on moral rules to guide us (in Kopperi 1999: 1).

In response to this constraint, philosophers have returned to the classical forms of moral thought and especially to the virtue ethics of Aristotle. Virtue theories aim to provide a person with a clear picture of the good life and a means of ordering one's priorities in a way that enables the good life to be realized. In contrast, modern ethics, relying on consequentialist and deontological approaches, does not engage with questions such as, "What aims should I pursue?" "What books should I read?" or "What friends should I have?" As Annas puts it, "A great deal of modern literature and psychology arises and revolves around the way people reflect about their lives, but thought about one's life is no longer seen as central to ethical philosophy, at least to ethical theory" (in Kopperi 1999: 9–10). More recently, a number of philosophers have argued for an approach to ethics that would include all aspects of human life. For example, Nussbaum (in Kopperi 1999: 10) seeks to replace the distinction between the moral and nonmoral aspects of life with a notion that would include all aspects of that life. R. C. Solomon (in Kopperi 1999: 11) promotes a virtue ethics approach to business ethics, relating business practice and ethics to individual responsibility and character and not to abstract principles or moral rules.

In his philosophy, Kant criticizes virtue ethics for confusing happiness and morality. He argues that concerns about one's own happiness and broader concerns about morality are entirely different issues, each with their own objectives, and that they should be kept separate (Kopperi 1999: 12): "Whereas virtues in ancient theories enable a human being to live a good life and to achieve her final goal, in modern ethics they enable her to follow the moral law that is, in turn, independent of the notion of the good life" (p. 15). Ancient ethics stands in contrast to modern ethics, because each advises persons to seek guidance about moral actions from a different direction. Whereas ancient theories call on the notion of the good life when determining the moral worth of particular acts, modern moral theories see morality and the good life as two quite distinct issues. The modern view is that a particular action is not morally right simply because it contributes to the good life or to happiness (p. 22). The classical moral theorists believed that persons have a specific end given to them by nature and that realizing or achieving this end would constitute their good life and happiness (pp. 26–27). They considered that ethics ought to tell us how to realize our true natures and reach these specific ends. In this way of thinking, a good life is one in which one's potentialities as a human being are fulfilled. Once it is assumed that there is a clearly defined end for a person, it is then possible to work out what kinds of behavior ought to be encouraged and what character traits should be developed to lead a good life. This ancient notion of human nature having a specific end was jettisoned by the modern moral philosophers as modern science developed in the 16th and 17th centuries. According to the new interpretation, there are no final ends or purposes and no conception of the good life.

For Plato, Aristotle, the hedonists, and the Stoics, the questions are "What sort of life is best?" and "What sort of life constitutes 'happiness'?" (Sharples 1996: 84). The Greek conception of the world was of an orderly system where everything had a proper place and where everything in nature existed for a purpose (Rachels 1997). In this ordered system, for example, rain existed for the sake of growing plants, which in turn existed to benefit animals, which in turn existed to benefit people, whose well-being was the prime consideration. After the Greeks came Christian

## A Closer Look

### Media Promoting Unfairness and Injustice

The former football star O. J. Simpson wrote a book 12 years after his ex-wife and a friend were murdered in Los Angeles. In the book, he described hypothetically how he would have killed them both. The book was titled *If I Did It* and was published by a company owned by the FOX TV parent company, News Corp. The book was distributed to bookstores in 2006, and public outcry forced News Corp CEO, Rupert Murdoch, to cancel the project, terming it "ill considered." A planned 2-hour interview on FOX TV stations was due to air during November 2006 but was also cancelled after advertisers withdrew and a number of affiliates declined to broadcast the program. Simpson earned \$3.5 million for the book and TV appearance. While it is true that Simpson was acquitted of the murders, he was later found liable for the deaths in a civil suit and ordered to pay \$33.5 million to the families of the victims. Nearly 50,000 people signed a petition on the web demanding that the media projects be cancelled.

SOURCE: Plaisance 2009: 94–95.

## ❖ Manipulation

Media manipulation of public opinion demonstrates the power of the media and the consequences of abuse. Media power is formidable in political, economic, and social fields—a media review of a new product can make it or break it, and plays and films can be destroyed or made by the media (Klaidman and Beauchamp 1987). However, in general, press power is exercised through its selection, treatment, and presentation of information (p. 181). When media attempt in hard news to persuade using emotional rhetoric rather than fact, this constitutes manipulation. Similarly, when a journalist relies on an unsubstantiated argument without noting its weaknesses to produce a desired conclusion, he or she is employing techniques of manipulation. Reasoned arguments that explain and persuade do not constitute manipulation, but often, media presentations cross a line and inject emotional content. At that point, persuasion can become manipulation. According to Klaidman and Beauchamp, manipulation is "any intentional and successful influence of a person by noncoercively altering the actual choices available to the person or by non-persuasively altering the other's perceptions of those choices" (p. 188). The essence of manipulation is the absence of any resort to coercion and to reasoned argument. As well, the employment of techniques of manipulation always require justification. The media itself are readily and regularly manipulated by those who wish to shape opinion, especially by politicians, interest groups, police, and the like. Journalists rely on sources for information, on quotes and analysis, and therefore individuals can readily use the media as a means of promoting a particular perspective and as a vehicle for influencing the broader public.

Examples of manipulation by journalists include their use of deception to influence others to disclose material they would normally not disclose. For example, in one case, a journalist wanted to write a series of articles about life in prison and believed the only way he could achieve this was by becoming a prisoner himself (Klaidman and Beauchamp 1987: 195). Other than being sent to prison for a crime, the journalist could only resort to deception. He therefore persuaded the local attorney general to allow him to enter a state prison as a transfer inmate from a county prison awaiting a grand jury trial. The question may be raised whether the story this journalist was seeking was important enough to justify the deception he used to obtain it, and what harm the deception caused to those who were deceived, namely, the prison officials and inmates. Klaidman and Beauchamp argue that this deception was not morally wrong even without the compelling account of the journalist's 6 days in the state prison because there was no other way to obtain this important story.

## ❖ Maintaining Trust

One of the most urgent moral concerns in journalism is securing and keeping the trust of the public. Without that trust, the media's function of providing information for the public benefit cannot be satisfied. Truthfulness is fundamental to trust and is associated with fidelity and loyalty. Trust in the media must also be informed and skeptical, and the public must be sufficiently media literate to make their own judgment concerning what is presented—trust should not be blind nor passive (Silverstone 2007: 127).

The importance of the virtue of trust is illustrated in a story about whether a newspaper and television station should have cooperated with a police operation in what was claimed by police to be the protection of an innocent life (Klaidman and Beauchamp 1987: 156–157). In fact, the cooperation resulted in the media lying in print and in broadcasts, signifying a fundamental breach of trust. The facts were that a reporter for the *Hattiesburg American* received a call with information that there was to be a “hit” killing in Hattiesburg. After contacting the police, the reporter was asked to stay in contact with the caller, who subsequently asked police if they could supply a person to pose as a hit man. The police provided a poser, and the bogus hit man was contracted to kill the target. By this point, the U.S. attorney, the district attorney, and the media, in the form of the newspaper and the manager of the local television station, had been asked to cooperate with the authorities. The authorities proposed that the killing be staged with the full cooperation of the media who would report the incident so that the man hiring the hit man could be trapped when he paid for the hit. The bogus hit man had been told that unless he made the hit by the upcoming weekend, another hit man would be hired. It was clear, therefore, that unless the hoax succeeded, a man might actually be killed. The media were explicitly asked to deceive the public even though their code of ethics requires them to always present the truth. Ultimately, the newspaper compromised by suggesting in the story that police were seeking information about a suspected murder, while the television station fully cooperated. Despite this, the man who was financing the killing did not believe the murder had taken place and refused to pay the hit man. Later, he tried to hire another hit man and was caught by police, this time without media involvement. This set of events helps demonstrate how some media will adhere to ethical standards, including keeping the public trust, despite the pressures to act otherwise.

It is easy to see how eroding the public trust in the media would result in the public paying less regard to the media and being less well informed. As well, it could be expected that there might be demands for media freedom to be circumscribed. Surveys into media credibility have been taken by organizations such as the Pew Research Center for the People and the Press (2008). The 2008 biannual poll on media credibility found the following:

- Over the preceding 10 years, almost every news organization or program had seen its credibility marks decline.
- In relation to the major broadcast news outlets, the credibility rating ranged between only 22% and 24%.
- For newspapers, the *Wall Street Journal* rated higher (22%) than the *New York Times* (18%) or *USA Today* (16%).

This trend revealing a low level of credibility in the media has been consistent over many years and can be presumed to indicate a long-term inconsistency in media reporting in terms of trust, fairness, and competence. Where the public trust is seriously undermined due to deliberate fraud (as in the Cooke 1980 story above), the public is harmed, and the media fails to honor the privilege it enjoys under the U.S. Constitution.

Honesty is also in play where the media is thought to be encouraging injustice and unfairness, as occurred when O. J. Simpson sought to profit from the death of his ex-wife.

thinkers, who, while accepting this rational orderly system, believed that God was needed to complete the picture. According to their way of thinking, rain helps growing plants because that is what God intended, and animals benefit humans because that is what God made them for (p. 34). This Greek and Christian view of the world generated a number of ethical notions including those of the importance of human life and the preeminence of humans over animals as well as over nature. The rational and orderly world gave rise to laws of nature and notions of natural and unnatural acts. In the 16th century, with the advance of science and the knowledge of the earth's position in the universe, humankind's central place in the divine scheme of things was displaced, and Galileo, Newton, and others explored natural phenomena using empirical methods. Now it was found that the rain did not fall to help plants grow but because of physical causes (p. 35).

Like many disciplines, philosophy has been impacted by postmodernism. In a detailed exploration of postmodern ethics, Zygmunt Bauman (1993: 4) argues that postmodernism has brought about a change in the way we address moral problems. Instead of responding to those problems through a philosophical search for universal principles and universal theories, postmodernism claims that absolute obligations and principles are oppressive, and that in the postmodern age, the individual need not seek to attain moral ideals and guard moral values (p. 2). Bauman's contention is that rather than rejecting moral concerns altogether, what is required is a new way of approaching ethics. He identifies a number of aspects associated with the postmodern perspective on ethics, including the following (pp. 10–14):

- The notion that humans are essentially good and are merely in need of moral guidance has been discredited and replaced by the notion that humans are in fact morally ambivalent, and therefore no coherent ethical code can satisfy all needs. The absence of a moral code means we need to learn how to live without those sorts of guarantees.
- The assumption that morality and ethics function like law in trying to define what is proper or improper in given situations substitutes a body of rules for the individual moral self. This notion, says Bauman, leaves no "grey area" of ambivalence and multiple interpretations. In other words, it acts on the assumption that in each life situation, one choice can and should be decreed to be good in opposition to numerous bad ones, and so acting in all situations can be rational while the actors are, as they should be, rational as well. But this assumption leaves out what is properly moral in morality. It shifts moral phenomena from the realm of personal autonomy into that of power-assisted heteronomy. It substitutes the learnable knowledge of rules for the moral self constituted by responsibility.
- Postmodernism holds that few ethical choices can be considered unambiguously good and that the majority of such choices are made on the basis of impulses, which are often contradictory. As Bauman writes, "The moral self moves, feels and acts in the context of ambivalence and is shot through with uncertainty" (p. 11). There is, therefore, a stress on moral acts seldom providing complete satisfaction and on the uncertainty that accompanies any ethical decision making.
- Morality is not universalizable.
- Morality is irrational in the sense that attempts to erect a body of rules for ethical conduct meet resistance in the form of the autonomy of the moral self.
- Power plays a role in shaping moral codes, because such codes purport to be the final authority on morality. In contrast, the postmodern perspective holds ethical codes to be relative and sees the moral practices they recommend as being the outcome of political exercises of power that claim the status of "universal" for ethical codes. Codes of ethics that deny relativism as well as the local and the particular substitute rule-bound ethics for personal morality.

The postmodern trend in ethics is exemplified in the work of Richard Rorty, who has argued that philosophy in its traditional form is dead and that the privileged position of philosophers