

Defending the Candid Gaze: Theory, the Archive, and Depolicing Street Photography

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Abstract

Since practically the dawn of photography, there have been concerns over street photography's invasive and potentially exploitive nature, from late nineteenth-century tropes of pests and "sneaky characters" trailing women in public parks to more recent panics over "camera fiends" and even state security warnings of the need to be vigilant of photographers potentially casing infrastructure for terrorist attacks. This article argues, using potted history and critical theory, that such straw-man arguments distract from the real dangers that the policing and curtailment of public photography pose, characteristic, as they are, of authoritarian regimes where control over taking and circulating images is an integral part of oppressive state and corporate apparatuses. Street photography's implicit role in the construction of an archive of aesthetic and documentary value can be understood as a type of resistance to such threatened microfascisms.

Keywords: Street photography, candid, invasiveness, critical theory, the archive, microfascisms, resistance

Prior to the pandemic years (2019 to mid-2023), street photography found itself in a paradoxical position. On the one hand, it was increasingly globalized and indeed fêted through prestigious exhibitions, such as 2014's "Henri Cartier-Bresson" at the Centre Pompidou in Paris, luxe publications, from coffee-table tomes to Sophie Howarth and Stephen McLaren's manifesto-like *Street Photography Now* (2011),¹ the award of prizes and gongs from entities such as Magnum Photos, and massification via the proliferation of online galleries, from dedicated sites to social media platforms. On the other, it suffered from increasing assault on two major fronts. The first was due to governmental and law-enforcement bodies' increasing suspicions over photographers' motives, especially when sensitive sites—think potential terror targets—entered the frame. The second was in the court of public opinion, where it was increasingly subject to moral panic over notions of consent, particularly but not exclusively where women and children are concerned, and concomitant anxieties over the private ownership of one's image, even or perhaps especially when captured in public spaces. In an age of ubiquitous photo-sharing, street photographers became positioned in the popular imagination as potential nuisances, even creeps. The coalescence of these two vectors

created fears among street photography's champions that the practice was under threat, with the risk that something important to public life was in immanent danger of being lost.

As the world has emerged unsteadily from the pandemic to a cascade of other interlocking crises, from climate breakdown to the erosion of democracy, liberal and social democratic, the rights of photographers to snap happily away at unwitting subjects might seem a luxury, a perverse fixation, even. However, I would argue that both legal and social injunctions against street photography represent what Gilles Deleuze and Félix Guattari describe as microfascisms,² and that the practice and its defense can be understood as a form of micropolitics pitched against these microfascisms. After all, in the early decades of the twenty-first century, hegemony over the photographic image and related video artifacts falls under two main camps: juridical (from state to corporate surveillance regimes) and mass cultural (including the curation of images within commoditized social media economies and particularly the selfie). I would argue, again in Deleuzo-Guattarian terms, that, by contrast to these molar forces, the "candid" image is often molecular, effecting deterritorialization and offering lines of flight.

The first part of this article considers the broad arc of historical concerns around candid photography's invasive nature. Developments that have often seen the practice vilified—or at least looked at askance by opponents—are contrasted with its documentary purpose and value as reportage, if not indeed art. Here, I am also following on from my argument linking the street photographic moment to the Situationist *dérive*.³ There, I was concerned with setting up a hypothetical dialogue between the practice in its mid-twentieth-century formative and breakout phases, and the Situationist International's contemporaneous notion of an unscripted drift (*dérive*), through city streets, often linked to the radical *détournement* of maps and other media. Here, critical-theoretical reflection around photography culminates in discussion of the archive, a rather more enduring dimension in relation to the "street" genre. Finally, I bring these two concerns together by looking at the regimes which currently seek to circumscribe street photographic practices and argue why it is important that they are challenged and subverted for the health of public life. I would argue that it is not too great a claim to make that defending the candid is part of the wider struggle we are engaged in, which is to defend and extend the democratic experiment itself.

Contested Gazes

Photography has long been viewed with ambivalence, not least for its capacity to invade personal space and, perhaps worse, create a quasi-permanent record of that invasion. In *Camera Lucida: Reflections on Photography* (*La Chambre claire: Note sur la photographie*, 1981), Roland Barthes notes that "photography corresponds precisely with the explosion of the private into the public."⁴ Thus in the nineteenth century many

cities formulated ordinances limiting the public practice of photography designed to protect the “modesty” of women, provoked in part by the mass-marketing of Kodak cameras from 1888:

Kodak supplied Everyman with a camera, and in popular literature there soon appeared a new pest, the amateur photographer, an often invasive, sneaky character. There were cartoons of photographers hiding themselves in the branches of trees or shadowing ladies with their beaux in the park. . . . Suddenly the public park became a dangerous place; further metaphors for hunting, such as the verbs stalk and prey, became common descriptive terms used in association with taking pictures unobserved.⁵

Archetypal street photographer Henri Cartier-Bresson’s prescriptive advice in *The Decisive Moment* (*Images à la Sauvette*)⁶ in 1932 accords well with this hunting metaphor. As he wrote, in a staccato summary of his famous method, “A velvet hand, a hawk’s eye; these are all one needs.”⁷ Frame a setting with a compelling geometric backdrop and lie in wait like a hunter for his prey—or a peeping Tom peering through a keyhole—for the “decisive moment”: the fortuitous arrival of the requisite human subjects within a predatorial gaze not unrelated to Laura Mulvey’s famous, if often simplified, male gaze in the cinematic context.

In *Voyeurism, Surveillance, and the Camera since 1870*, Sandra Phillips investigates “photography’s role in voyeuristic looking.”⁸ In an essay centered on New York in the first half of the twentieth century, she argues that the modern concern with privacy is itself partly a reaction to the advent of the small camera. This was nowhere more evident than in the Big Apple’s crowded slums, which provided ample subject matter for “sneaky characters.”⁹ A street photographer whom Phillips references in this respect is “Weegee,” born Arthur Usher Fellig (1899–1968), who worked on the Lower East Side in the 1930s and 1940s. Weegee is perhaps the ultimate example of a photographer skating at the outer boundaries of conventional taste. Operating much of the time from the trunk of his car as he tailed the city’s emergency services, he captured gritty and indeed grisly scenes of crime and abandon, as fictionalized in the films *The Public Eye* (1992) and *Nightcrawler* (2014).¹⁰ As Phillips comments,

These pictures have none of the mystery of Brassai’s [photography]: Weegee’s world is tougher, more daringly graphic, and more explicitly voyeuristic. It is almost as if the flashbulb had been invented just for him, to reveal the gore, the crumpled bodies on the pavement, the look on the face of someone who had just killed somebody, or had seen someone die.¹¹

However, alongside practitioners all too easily accused of prurience there were also high-minded organizations with civic agendas working the street, such as the New York Photo League and Farm Security Administration’s photography program in the 1930s.¹² The Photo League, founded in 1936 and active until 1951, was a cooperative of

amateur and professional practitioners who pioneered what we today call citizen-led photography, with a particular focus on documenting social conditions. The Photo League's roots—via the Worker's Camera League—in the Berlin-based Worker's International Relief saw it largely persecuted out of existence during the McCarthy years, when it was targeted as communist and un-American. By 1937 a similar social-research organization known as Mass-Observation was operating in Britain to a similar brief. Founded by anthropologist Tom Harrisson, filmmaker Humphrey Jennings, and poet Charles Madge, Mass-Observation was active until the 1950s, with its initial goal being to “systematically . . . record human activity”¹³ in the industrial town of Bolton, resulting in an ever-expanding string of books and projects. Many cities in Asia, such as Hong Kong and Tokyo, have had their own venerable practitioners, with photographers such as Fan Ho (1937–2016), Daido Moriyama (1938–), and Nobuyoshi Araki (1950–) widely celebrated. Indian photographer Raghu Rai (1942–), a protégé of Henri Cartier-Bresson, was inducted into Magnum Photos in 1977. Here, as elsewhere, the sheer pervasiveness of cameras from the early to mid-twentieth century on led to comparatively permissive mores, corresponding with the period in which street photography became a defining photographic genre.

Indeed, the candid would develop in close relation to social realism, including gritty realism. As art historian Max Kozloff commented on Robert Frank's New York photography,

Robert Frank produced for us an album of the city the exact opposite of the cheerful, gregarious multitudes for which the city had been celebrated in many other photo campaigns. His New York, on the contrary, was a patchwork of subcultures, and wary glances. All of this comes through works of great power that add to the mythos of the city as a place you have to watch your step in.¹⁴

Joel Meyerowitz has spoken of working with the Zurich-born émigré:

I was an art director and Robert Frank shot this job for me, and it was so interesting. I had never seen a real photographer before. He just was so physical, and he moved so agilely, and he was balletic and he kind of whispered to the girls as he was photographing them.¹⁵

Of course, today this type of insinuating dance, implicating the photographer in a kind of seduction of the subject, might well raise qualms, if not hackles, about informed consent.

Alfred Hitchcock's noir classic *Rear Window* (1954)¹⁶ has been described as “an apt window”¹⁷ into voyeurism in street photography in the 1950s, with a particular focus on Frank, who stated that

I just go and watch people and photograph them and I try not to do it so people see me. . . It's a way of photographing. It's very quick . . . , that's one of the reasons I think the pictures succeed. None of [the subjects] is really conscious of the camera.¹⁸

As Philip Brookman suggests, the allusion, in Frank's words, to his work as "a kind of spying affair"¹⁹ is no joke: in 1955 the photographer was briefly arrested on suspicion of being a foreign agent. The police report stated,

This officer investigated this subject due to the man's appearance, the fact that he was a foreigner and had in his possession a camera and felt that subjects should be checked out as we are continually being advised to watch out for any persons illegally in this country possibly in the employ of some unfriendly foreign power and the possibility of Communist affiliations.²⁰

As will be seen in the final section, a similar climate prevails today. Yet it is precisely the suspicion of authorities toward such alleged communist activities (as Rebecca Lepkoff has noted caustically in relation to the Photo League, "We never talked about communism or anything, but they always kept an eye on us because they felt we were close to the philosophy of the working people, of the poor people"²¹) that suggests the genre's ongoing documentary and archival value, with the resultant images acting not solely as artistic but also as social realist artifacts.

Work from New York's Lower East Side of the 1970s and 1980s is a case in point. Martha Cooper, for example, who started shooting in Alphabet City in 1975 on the way to and from her day job, had studied anthropology, thus bringing to bear an "ethnographic point of view as opposed to trying to be an artist." At the same time, she comments that "I'm not trying to do a kind of investigative reporting where I'm showing the evils of landlords, for example. I'm more about public space and how people are using the space, and how people are surviving."²² Cooper regarded herself as an archivist of the ephemeral, getting up before dawn and putting in long hours to get shots of tagged trains tunneling their way through the characteristic 1970s urban badlands evocatively recreated by Baz Luhrmann in *The Get Down* (2016).²³ Similarly, Jill Freedman majored in social and cultural anthropology and had nine collections published before her death in 2019. However, while she took gritty shots of the usual suspects—"the bums, the crooks, the creeps"²⁴—it is her forensically detailed photo books and associated exhibitions on the tough but camaraderie-rich world of Manhattan's blue-collar cops and firemen for which she is best known.

Perhaps most controversial, in terms of interaction with his subjects, is Bruce Gilden, who has said that "if you had 42 Bruce Gildens running around, Jesus Christ, there'd probably be a ban against photography, no one would be allowed to take street pictures on the streets of New York."²⁵ This is due to his technique of stunning his victims with a handheld flash, resulting in outlandish, high-contrast images that provide inimitable,

iconic portraits of the city's more colorful denizens. If Cartier-Bresson's humanistic approach is Classical street photography, then Gilden's is Gothic, a grotesquery of gargoyle faces savagely lit against deep shadows. "I work on negative energy," Gilden has stated. "If you get me mad in the street I'm flinging a camera in anyone's face."²⁶ There is, in fact, historical precedent to Gilden's approach in one of New York's early twentieth-century practitioners, Jacob August Riis, who "walked through the tough parts of lower Manhattan" and often photographed in "destitute neighbourhoods and photographed in dark alleys, small rooms, even basements" using the recently invented magnesium flashgun—"literally a gun with magnesium and gun powder that exploded a flash on firing." Despite the noble agenda of highlighting the deplorable conditions suffered by the poor, Phillips comments that "many of Riis' photographs are almost shockingly invasive, a sense reinforced by the brutal, assaultive flash."²⁷

Street photography has become increasingly diverse, in terms of genres and of the global spread of its practitioners, in the decades since these photographers rose to prominence. However, the friction between voyeuristic invasiveness and the documentary and artistic value of the de facto archive such images form still frames the major issues at stake in the recent pogroms against street photography. Before turning to that subject, however, it is worth considering the practice through the lens of critical theory.

Street Photographic Theory

Street photography is comparatively undertheorized, as I have argued elsewhere.²⁸ Yet there is sufficient critical theory around photography more generally to ground "street" as a genre within that broader conversation. Poststructuralist thinkers, in particular, have sought to

open up the context of photography and expose the limits of the aesthetic and formalist approach to the medium as a fine art. Photography was seen as an integral part of mass culture, and it was ideological through and through.²⁹

Such critical theory is diverse, often dense and difficult to do justice to with brevity, but several strands stand out as being of particular relevance to street photography.

Roland Barthes touched on photography's habitual role in disguising ideology through its apparent naturalism from his early structuralist work, *Mythologies* (1957),³⁰ on, but tackles the problem head-on in *Camera Lucida*. Here Barthes introduces the notion of the so-called photographic *punctum*, particularly applicable to the medium of the snapshot, as a piercing of time that is set against the backdrop of the *studium* or cultural and intellectual ground from which we evaluate a photograph.

Barthes's *punctum* is the result of a kind of photographic accident that results in a rupture or wound that "bruises and stings" with its poignancy. Paradoxically, while existing in relation to the cultural sphere, it is not reducible to the codes of language or

any other cultural frame. This is in part because it operates at a bodily level as much as it does on the mind and is, in other words, an agency of affect. Deleuze and Guattari's understanding that "[affect] is a prepersonal intensity corresponding to the passage from one experiential state of the body to another and implying an augmentation or diminution of the body's capacity to act"³¹ is instructive here. In his *Ethics*, Spinoza famously associated affect with desire, pleasure, pain, and sorrow, within which are contained a whole plethora of states. Crucially, however, for Deleuze and Guattari affects are not just states of mind but are physiological, being felt intensely in the body. *Camera Lucida* has been read as being as much a kind of eulogy to Barthes's late mother³² as an inquiry into photography—grief, of course constituting perhaps the profoundest of affects.

Barthes's *punctum* and *studium* schema, however, has not been without its critics. Jacques Derrida's relationship to photography was conflicted in that he admitted to preferring the pleasure derived from language to visual arts. Yet fully five of his books concern visibility, with photography occupying a central role. One notion of particular relevance is his wordplay around the French colloquial term for snapshot, *instantané*, literally meaning "instantaneous." For Derrida the notion of the photographic moment as instantaneous was something that required deconstruction. He argued that Barthes's *punctum* is not an uncoded instant at all but a duration in time that therefore also includes culture and constitutes an additional element which we inevitably bring to the photograph as spectators. It is in this supplementary relation that the "ghostly power" of the image resides. As Derrida puts it, "Ghosts: the concept of the other in the same, the *punctum* on the *studium*, the completely other, dead, living in me. This concept of the photograph *photographs* every conceptual opposition; it captures a relationship of haunting."³³ Derrida draws attention in particular to the fact that photography can never be simply a passive record or archivization of something preexisting: it is always a productive and performative event.³⁴

Photography has often been the subject of ambivalence for critical theorists, who have sought both to deconstruct its apparent naturalism and to critique its reception in mass culture, and therefore its role as a shaping agent in modern society. In *Photography: A middle-brow art* (*Un art moyen: Essai sur les usages sociaux de la photographie*, 1965),³⁵ Pierre Bourdieu argued that, even when snapped, people ordinarily face the camera instinctively, striking a respectful pose. Moreover, they do so in ways which emphasize cohesion, implicitly reinforcing dominant social structures such as the nuclear family (or extended family, team, and so on) in their self-organization, thus reinforcing dominant visual regimes. "The convergence of looks and the arrangement of individuals collectively testifies to the cohesion of the group,"³⁶ and, as Stephen Bull writes, "In this way each individual snapshot performs in microcosm the role of snapshots en masse: the representation and reproduction of social integration."³⁷

The limited scope of Bourdieu's examples has led to accusations of a Eurocentric bias, and it could be argued that, at its most candid extreme, such as in the away-from-eye style known as "hipshooting," street photography works to edit out precisely such conscious social staging, thus aiming to capture the irreducibly unposed, the purely spontaneous. If the regime of the bourgeoisie family is itself a form of microfascism, or site of multiple microfascisms, then the street shot—and especially the hipshot—works to undermine this regime. The proviso here, however, is that in even the most (apparently) unscripted shots, the photographer is far from a neutral player and is in fact highly "motivated," as reflected in their choice of subjects and subsequent selection of images, cropping and processing, and curation of material for publication for an intended or imagined audience. Nonetheless, on the continuum between the most and least heavily scripted, street photography occupies the latter extreme.

Jean Baudrillard—best known, of course, for his theorization at the confluence of "simulation, seduction, sex and signs," as Nikos Papastergiadis puts it³⁸—was also, from 1981, a dedicated photographer, after being given a camera while visiting Japan. For Baudrillard the inherent problem of photography is that its chemical traces of extinct light do not adhere to anything "real" upstream of the image. This is because, far from preserving anything, the photograph "disappears" it, in a similar way to fossil traces in a rock, which exist long after the living organism has ceased to exist. Thus, photography becomes "the primal scene of a ghostlike inscription away from human intervention."³⁹ Fascinatingly, for a philosopher most closely associated with the virtual, Baudrillard consequently

praises the analogical at the moment it is in the process of being eclipsed by the digital. . . . With the digital image the real has no manner of disappearing because it has already disappeared. . . . Virtuosity here only increases "the technical harassment of images."⁴⁰

As will be seen below, valorization of the analog continues to inflect many discussions about street photography today, though for more pedestrian reasons connected to craft practice and aesthetics.

Susan Sontag is another theorist who expressed considerable ambivalence toward photography. Her *On Photography* (1977)⁴¹ grew out of a series of essays for *The New York Review of Books* on aesthetic and moral problems connected with the practice. While Sontag herself made films as well as writing novels and essays, her investment in the high modernist art of the avant-garde tradition led her to regard photography as misleading people into thinking art was easy and promotes a pop cultural ethos. She wrote that photography

is the most successful vehicle of modernist taste in its pop version, with its zeal for debunking the high culture of the past (focusing on shards, junk, old stuff, excluding

nothing); its conscientious courting of vulgarity; its affection for kitsch. Its skill in reducing avant-garde ambitions with the rewards of commercialism.⁴²

Her critique of an all-encompassing culture of excess and overproduction, in which industrial societies “turn their citizens into image junkies,” resembles Guy Debord’s Situationist critique of capitalism in *The Society of the Spectacle* (*La Société du Spectacle*, 1967),⁴³ but differs from the Situationist appropriation of its fragments and subsequent *détournement* into new forms of aesthetic and political resistance. She critiques photography as inherently surreal in the negative sense in which the movement was often critiqued: that is, for aestheticizing everything, thus ultimately creating nothing of value.

Street photography would seem to occupy a strange position in relation to Sontag’s critique. It is demonstrably demotic and often concerned with vulgarity but has also proved stubbornly resistant to complete commodification and remains a comparatively marginal photographic genre in the dealer-gallery nexus. In practice, however, Sontag was moved to attack Diane Arbus’s work—which, while semi-posed rather than purely candid, sits at the intersection of art and street photography genres—as “victim photography” lacking “the compassionate purpose such a project is expected to serve”⁴⁴ and thus constituting, in Sontag’s mind, a betrayal of the liberal documentary tradition. Just as how in “On Style” (1965) Sontag had condemned Jean Genet for exploiting suffering rather than doing the writer’s supposed job of imaginative transformation of his subject matter, so Arbus “was not a poet delving into her own entrails to relate her pain but a photographer venturing out into a world to collect images that are painful.”⁴⁵ Sontag’s views have in turn received mixed responses, but they may be seen to prefigure our current cultural moment’s fixation with valorizing victimhood and are echoed in popular objections to street photography as inherently exploitative.

There are clearly complex and often conflicting currents in critical theory surrounding the nature and value of the photographic, in general, that are applicable in various ways to street photography. A key concept, however, that can help articulate the value of street *sui generis* is that of the archive. Derrida, in discussing the preconditions for what he means by *archives*, states, “There is no archive without consignation in an external place which assures the possibility of memorization, of repetition, of reproduction, or of reimpression.”⁴⁶ With street photography, there is no one such place as such, but then, this is characteristic of the distributed and networked nature of knowledge since the rise of the internet and its multiple virtual sites, entangled as they are in various ways with the physical. Besides, this distributed and networked archive chimes with Derrida’s key concerns with the temporal and spatial dimensions of archived contents, their media formats and rights of access. Archives record and thus become subjects of nostalgia in contemplation of their artifacts through the rearview mirror, as it were—as

anyone contemplating some of Cartier-Bresson's more winsome shots, or the camaraderie of Freedman's cops in the day when a genuine blue-collar consciousness could still be found readily on the streets of Manhattan, might attest. Thus, street photography triggers our

compulsive, repetitive, and nostalgic desire for the archive, an irrepressible desire to return to the origin, a homesickness, a nostalgia for the return to the most archaic place of absolute commencement.⁴⁷

But archives are also sites for reflection on our way of life today in contrast to before-times. Crucially, the archive is important not merely as a collection of historical artifacts, though it may indeed be constituted in this way, but to how it lends itself to contesting the future: "as much as and more than a thing of the past . . . the archive should call into question the coming of the future."⁴⁸ Thus, for Derrida archives are

a question of the future, the question of the future itself, the question of a response, of a promise and of a responsibility for tomorrow. The archive: if we want to know what that will have meant, we will only know in times to come.⁴⁹

Michel Foucault employs the term *archive* somewhat ambiguously, but its key coordinates in his thinking have been conveniently summarized as follows:

1. "The Archive" is an analytical and systematic concept in Foucault's historical epistemology as it is elaborated in *The Archaeology of Knowledge*.
2. "The Archives" are historically embedded institutions functioning as administrative tools that register, store, and provide data about populations and nations, but that also exist within the aesthetic fields in the form of museums and libraries.
3. "The Archive" is a place with a singular character that is experienced aesthetically. Archives in this sense are refuges, belonging to a group of socially and historically constructed spaces Foucault referred to as "heterotopias."⁵⁰

These terms provide useful frames for both thinking about the value of the street photographic archive and contrasting it with other forms of data collection. For while the street photographic archive in toto—consisting as it does of myriad books, prints, and images circulating online—accords with points 1 and 2 in its value, first as reportage and second within the aesthetic field, it is also tied to the aesthetic and thus affective dimensions alluded to in point 3. This form of archive becomes a "refuge" in the sense Foucault refers to as heterotopian, which may be very roughly contrasted with a hegemonically controlled space or regime as ordinarily constituted (though paradoxically, for Foucault, carceral spaces such as prisons can be heterotopian in their inversions of the orderings and rules of everyday life).

Appraising street photography in relation to not merely the merits, or lack thereof, of the particular image or an artist's oeuvre, but also the broader functions of this archival domain provides a useful context for both the forms of attack it increasingly comes under and the cultural affordances it provides that may be worth defending.

Defending the Candid

In *Street Photography Now* (2011), intended as a type of street photographic study bible and manifesto, Sophie Howarth and Stephen McLaren argue that "no better advice has been given to street photographers than that offered by Walker Evans: 'Stare. It is the way to educate your eye, and more. Stare. Pry, listen, eavesdrop.'" ⁵¹ However, in a section titled "Liberty or Liability," they also note that

These are not easy times for street photographers, for whom acting suspiciously is an occupational hazard and loitering with intent a *modus operandi*. Tightening privacy laws and fears about terrorism have created an environment in which to stare, pry, listen or eavesdrop is increasingly to invite suspicion. ⁵²

They cite the posters issued by the London Metropolitan Police around the time *Street Photography Now* was published, which proclaimed, "Thousands of people take photos everyday. Which of one of them seems odd?" and exhorted citizens in the tones of Orwellian public service announcements to "remain vigilant" and "report suspicious behaviour." Similarly, in Australia a government-funded television campaign asked the populace to be alert to those photographing "subjects which have no credible photographic interest," as if photographic interest can be instantly gauged using normative intuition. ⁵³ The ostensible concern is that photographers are, under cover of their cameras, casing public joints, government buildings, corporate offices, and infrastructure for potential terrorist attacks. Add to this the cultural panic over "stranger danger" and "camera fiends" ⁵⁴ in public places, and the contemporary street photographer suddenly becomes less a possible nuisance than a serious menace.

The publication of an image such as Cartier-Bresson's *Rue Mouffetard, Paris* (1954), of a boy grinning cheekily while carrying two bottles of wine through the streets of Paris, would be far more fraught today. Howarth and McLaren argue that photographers must accept and adapt to some of these changing mores: "Although we may regret that so few of today's street photographers will document the spontaneity and fearlessness of children playing in public places, contemporary concerns about photographing minors seems unavoidable." ⁵⁵ Never mind that it is far more likely that studio and portrait photographers imperil the innocent than those who operate in the public eye, as the fall from grace and subsequent suicide of David Hamilton (1933–2016) suggests. Street photographers seem conspicuously absent from the dismal roll call of disgraced public figures who stand accused of preying on minors in the last decade. Nevertheless, in street photography and other genres the child nude has become particularly taboo, ⁵⁶ to

the extent that such photographic images may disappear from the public realm entirely, and social media users who post such images may be subject to investigation despite being innocent of prurient intent.

It is, however, harder to shield street photographers from inferences of a more general voyeurism, which as suggested earlier is, to an extent, implicit in the genre. This is because the very nature of photography, in creating not just an image but a record, threatens intrusion of a hitherto unimaginable kind. In “Right of Inspection” (1993), Derrida tries to tease out some of the politics of who controls the gaze in relation to public and private space, in terms of

what links the juridical, or the juridico-political, to seeing, to vision, but also the capture of images, their use. It remains a question as to who, in the end, is authorized to appear but above all authorized to show, edit, store, interpret, and exploit images.⁵⁷

Marta Giti notes that the French and English cognates for *surveillance* have subtly different meanings, with the English term implying close observation of someone suspected of a criminal act while the French connotes the “act of surveilling, of controlling something or someone. Subjecting someone to continuous supervision; observation.”⁵⁸ No one concerned with ethics doubts that deliberately invasive and exploitative practices, such as changing-room spy cams and upskirt photography, are egregiously invasive and breaches of trust, but such practices are illegal and punishable by statute in most jurisdictions and should not be used as a brush with which to tar candid photographic practices *sui generis*.

It is easy for Jane or Joe Public to obsess over the lone photographer clicking away in the vicinity of a playground while accepting as normal the conversion of entire cities into “giant laboratories for testing the latest equipment for control and security”⁵⁹ on the pretext of obscure threats to the apparatuses of state and corporate hegemony, such as occurs during world economic forums, for example. While ostensibly for public safety, these

technologies have a single objective: to identify in order to remove. Specifically, to identify subjects in order to associate them with a differentiated crowd—(e.g.) members of the anti-globalization movement—and remove them from political life.⁶⁰

Beyond this, omniscient national security archives and commercial databanks threaten full-spectrum surveillance, potentially usable for any and unknown future purposes. It is this kind of covert surveillance, I would suggest, that is truly invasive and, indeed, dangerous.

The relevance of this to street photography is that the popular demonization of citizen-led, public photography can be read as an attempt to misdirect attention from the monopolization of the covert gaze by the ruling state—governmental and corporate. This

subterranean cultural shift effaces the older “civil contract” model of public photography whereby it functions as a form of civil action to be accorded corresponding trust.⁶¹ A number of commentators have noted a troubling slide in public perception by which

Photography’s unprecedented ubiquity, fostered by the proliferation of mobile phones and digital cameras and the ease of online circulation, has sparked anxieties that have been fuelled by a range of particularly volatile social and political issues.⁶²

As mentioned, these include terrorism fears, paranoia about crimes against children, and loss of privacy, which, coupled with potential uncontrolled circulation online, conspire to “turn photography into a threat.”⁶³ Such had the harassment of photographers working in public places become prior to the pandemic that mass street protests were staged in countries such as the United Kingdom and Australia in 2010 to rebut the demonization of public photography, with more than two thousand turning out in London’s Trafalgar Square.⁶⁴ Monopolization of the gaze threatens, as its concomitant, monopolization of the archive, in terms of both its contents and foreclosures on what kind of archives can come into existence. “Unapproved” shots by citizen-photographers of people going about their business evoke ire, while vast repositories of data collected by CCTV, satellite, and biometric regimes metastasize daily.

Perhaps of equal concern is what is replacing the social action model of citizen-led photography. Today the selfie is perhaps the defining genre of “citizen led” photography situated at the interface of private and public realms. Of course, critics of the selfie need to bear in mind that self-portraits date to the dawn of art practice, and photos made courtesy of turning the camera on oneself go back to the beginnings of photography. The selfie is no more or less valid than any other cultural form. Richard Woodward dates the practice to at least 1840 with Hippolyte Bayard’s *Autoportrait en Noyé* (*Self-Portrait as a Drowned Man*), in which the photographer poses as a corpse.⁶⁵ However, what is new today is the sheer ubiquity of the practice, the rapidity with which Warhol’s grandchildren can generate images for their 15 seconds of fame, their endless circulation within social media, and the economies within which they function: commercial economies, social economies, and economies of popular desire. It is also hard not to note a contemporaneous coarsening of the threshold for what constitutes incivility in public discourse, and a culture in which anything and everything— from “private” sex acts to soldiers’ boastful shots of themselves lording it over their torture victims—have been “indiscriminately shared”⁶⁶ through online posting.

While concerned with the archiving of knowledge and who might access it, Derrida foresaw some two decades ago how rapidly new, so-called teletechnologies would

raise profound ethical questions concerning the production, circulation, and storage of images.

What the accelerated development of teletechnologies, of cyberspace, of the new topology of the “virtual” is producing is a practical deconstruction of the traditional and dominant concepts of the state and citizens (and thus “the political”) as they are linked to the actuality of territory.⁶⁷

Persons on social media in which such virtual archives circulate, in fact, tend to construct themselves not as *citizens* in any “civic” sense of the word at all, but as consumers of images who operate without an overt social agenda. While avowedly depoliticized, however, such social practices tend to feed comfortably into maintenance of the status quo: the hegemonic visual and other regimes which conspire to turn social life into what Debord described as “constant Spectacle.”⁶⁸

Is the ever-proliferating selfie or its shorts, reels, and TikTok video equivalents a new art form or the ultimate expression of a culture of narcissism? News in 2015 that a famous media celebrity took six thousand images of herself while on a four-day holiday to Mexico provokes several reflections.⁶⁹ The obvious one is that Kim Kardashian, in her stubborn persistence as an object of consumption in mass culture, is a new type of public figure who considers herself far more interesting than anything outside herself—in this case, Mexico or Mexicans, who, if they appear at all, merely serve as a backdrop to her ceaseless self-promotion. For critics, the title of her *New York Times* Best Seller-listed photographic collection *Selfish* (2015)⁷⁰ probably says it all and marks a new and disturbing departure in the photographic book genre. That said, those who do manage to trade successfully on their own static or moving image so as to achieve mass-market penetration may be undertaking one of the few viable responses to an otherwise insoluble reality: there are few other ways to appropriate the image-making machinery of late capitalism. As Alfredo Cramerotti argues,

The media machine distributes images of all kinds at levels of production with which the individual artist or collective cannot compete. The only way for an artist to contribute in shaping the public sphere is to go beyond the art system and become an artwork; to cease producing images (or other forms of narrative) in order to become an image.⁷¹

To an extent, celebrities, artists, and artist-celebrities have always co-opted and manipulated available media. In that sense we are indeed heirs to Andy Warhol’s tactics for promoting himself and members of the Factory circle, such as Edie Sedgwick, in the 1960s. Now, however, celebrity has become a self-driving vehicle, so to speak, with the selfie and its video-reel slice-of-life equivalents exerting cultural and commercial currency to the point of hegemony within the new, all-pervasive online celebrity system. Moreover, Cramerotti argues that this model has spilled over into common social practice. Everybody now is *expected* to self-curate as an “aesthetic responsibility”

which has eclipsed any previous communitarian notions of the ethics of image making, taking, and circulation.

Simultaneous with the culture of self-curation comes an increasing internalization of the notion of intellectual property. This leads the “public” to assert rights over their own “private” images, even when these may be taken in “public” places. Of course, compounding the problem is the loss of public space to newly privatized—and securitized—spaces. Ironically, this trend has found one of its most vociferous expressions in street photography’s spiritual homeland, France. While Article 10 of the European Convention guarantees rights to the freedom of expression and public’s right to receive information, the French legal principle of *droit d’image* (right of image) means that citizens own the rights to their own image, especially in relation to commercial exploitation. It is fair enough that private settings are inviolable, and it is an offense to take pictures in such places without express permission. However, the law in relation to public space is more nuanced, with much of the decision-making being left to judges in cases where complaints arise. Exhibitions and books may be exempted from this when the research is deemed artistic, cultural, or sociological. Troubleshooting these unpredictable subtleties is a minefield for photographers, however.

In 2009 an appeal by a woman against her impromptu appearance in French photographer François-Marie Banier’s book *Losing One’s Head* (*Perdre la Tête*, 2006)⁷² was rejected in court on the basis that “the right to control one’s image must yield when a photograph contributes to the exchange of ideas and opinions, deemed ‘indispensable’ to a democratic society.”⁷³ Street photographer Valérie Jardin notes that, in the wake of such cases, she still does not ask permission to photograph people in candid situations

in Paris or anywhere else in the world. . . . The privacy laws in France are nothing new, they are non-punitive and they were mainly written to protect against paparazzi. It’s fine to photograph people in the street as long as it doesn’t harm them (as in ridiculing them, giving away trade secrets, etc.) Those laws are not what you would consider “hard laws.” . . . I make a point to *never* photograph people in embarrassing or vulnerable situations and I only use my street images for fine art or editorial purposes. I do not sell images to stock agencies.⁷⁴

Nevertheless, rumors of the United Kingdom introducing French-style privacy laws sent chills down the collective spine of the global street photography community in the previous decade, with fears of the adoption of repressive legislation circulating elsewhere.

Many critics have warned that “such are the forces arrayed against photography”—that is, other than the hegemonic forms of surveillance images and the selfie—that the “potential loss of our future historical record is a major concern.”⁷⁵ What is at stake is

the maintenance of photography “as a tool for the formation and reformation of public life.”⁷⁶ Public-good photography, and by implication the archive, face a perfect storm. First, the increasing monopolization of the public gaze through shadowy surveillance laws applied, often in secret, by state and corporate security apparatuses. Second, police and private security guards who intimidate or harass photographers at the shadowy borderlines of public and private (or newly privatized) space. Third, a public who, programmed to think of their “own” images as private property and spooked by cultural panics concerning women and children being preyed upon by creeps with cameras, passively acquiesce in this ongoing circumscription of the public domain—or who even themselves take up the baton to harass photographers.

The pandemic interjected itself into this historical moment, with largely deserted streets peopled sparsely by masked actors making such concerns somewhat moot for a time. Amid the converging environmental, social, and political crises of the immediate post-COVID-19 era, they have arguably receded backstage, to some degree. New scares over what Noam Chomsky terms the “plagiarism machines”⁷⁷ of generative AI images pervade the air, from wholesale intellectual property theft to deepfake porn. However, for street photographers this intermission is likely to prove brief, and something real remains at stake here. After all, microfascisms, if not challenged, seldom remain diminutive in scale but tend to assemble into ever-larger molar and repressive regimes. It is no accident that the most authoritarian states match their corporeal control over the citizenry with increasing regimes of control over the production and circulation of images, especially those of an unflattering documentary nature. Try taking candid street shots in Pyongyang, for example—though, ironically, it is also an offense to take pictures of people in public places without their permission in South Korea, albeit with less-fatal consequences.⁷⁸ Presumably citizens of what are often triumphally described as the world’s “mature democracies” do not wish similar strictures to pertain on the streets of their own towns and cities.

As Jeff Mermelstein argues, it is the very unscripted, candid nature of street photography which makes it an important part of the documentation of our time. Some of the most significant images in any art medium in the last 150 years have been made by street people like Henri Cartier-Bresson, and Diane Arbus and Robert Frank. If that’s discouraged, in the long term it will be a substantial loss.⁷⁹

Indeed, one of the virtues of street photography is precisely that it does not conform to the hegemonic gaze of the surveillance state or collude in the cultural dominant of excessive self-curation. Arguably, what it does do, by contrast, is deterritorialize the subject from the regimes in which is enmeshed, its collectivized archives offering critical refuges and lines of flight in a culture that seeks the circumscription of the photographic subject to its own leaden gaze.

Notes

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