

WRONGING PERSONS THROUGH PHOTOGRAPHS ON PHOTOGRAPHIC FRONT INCURSIONS

Macalester Bell

There is something appalling about photographing people. It is certainly some form of violation.

—Henri Cartier-Bresson

Well, one of the reasons I photographed my family when I first started doing it was because I could push them around. I didn't feel uncomfortable about using them.

—Philip-Lorca diCorcia

MANY PHOTOGRAPHS take persons as their primary subjects, and these images raise a number of moral questions that have received little sustained philosophical attention.¹ People often feel wronged by the creation and dissemination of their photographic image. In fact, reports of such feelings are as old as photography itself, and the seemingly predatory nature of photography is baked into many English terms for photographic activity. For example, photographs are *shot*, *taken*, or *captured*. In some legal

- 1 Analytic philosophers who address the general ethical dimension of photographs of persons include Bell, "Respecting Photographic Subjects"; Davies, "Susan Sontag, Diane Arbus, and the Ethical Dimensions of Photography"; Hadley, "Street Photography Ethics"; and Danto, "The Naked Truth." Other theorists who have written about the ethical dimensions of photographs of people include Coleman, "Private Lives, Public Places"; Linfield, *The Cruel Radiance*; and Sontag, *On Photography* and *Regarding the Pain of Others*. While not focused on still photographs, Rini and Cohen offer an account of how so-called "deepfake" videos can harm ("Deepfakes, Deep Harms"); and Rini discusses how deepfake videos can undermine the role that audio and video recordings play in providing what she calls an *epistemic backstop* ("Deepfakes and the Epistemic Backstop"). In addition, privacy theorists have sometimes discussed photographic invasions of privacy as part of an overarching argument in favor of a particular conception of privacy. In fact, it was advances in photography (allowing for surreptitious picture taking) and concerns about nonconsensual dissemination of photographic portraits that inspired Warren and Brandeis' law review article "The Right to Privacy," which was the first publication in the United States to make the case for a legal right to privacy.

systems, taking or distributing a photograph without the express consent of the subject is a violation of their personality rights.²

Yet many dismiss these claims of purported wrongdoing or are quite conservative in their estimations of when photographs can wrong their subjects, e.g., by suggesting that photographs wrong primarily when they violate someone's privacy or portray offensive stereotypes. While these skeptics acknowledge that people can become emotionally upset by having their photograph taken or made unhappy by the resulting image produced, this unhappiness is often considered simply the result of an objectionable form of vanity or preoccupation with one's image. We do not, according to these critics, *owe* anyone happiness in this domain, and it is incorrect to suggest that we can wrong someone through the creation or display of a photograph, except in a narrow range of cases (e.g., photographs that violate a person's privacy).³ And the fact that many people are not at all bothered by being photographed and even welcome the opportunity further cements the impression that the vast majority of claims of wrongdoing in this domain are simply exaggerated expressions of bruised egos and can therefore be safely ignored.

I think these skeptical assumptions about the reality of photographic wrongdoing are mistaken. While it is possible, of course, to dislike a photograph of oneself due to vanity, and while we do not have a general moral obligation to ensure that every person's vanity is protected, photographs can do more than bruise people's egos. Photographs can wrong persons in ways that go beyond privacy violations, stereotyping, and other kinds of widely recognized wrongs, and we should take this possibility seriously in our photographic practices.

I start by briefly outlining two cases in which persons felt wronged by the creation, alteration, handling, or dissemination of a photograph of themselves. Specifically, I am interested in cases where the subject of the photograph has purportedly been wronged. These testimonies obviously do not settle the matter of whether or how a photograph can wrong, and we cannot accept at face value these testimonies as decisive or irrefutable evidence of wrongdoing. But given widespread skepticism regarding photographic wrongdoing and the general tendency to dismiss many claims of wrongdoing as mere vanity or overpreoccupation with one's image, beginning with these testimonies and attempting to make sense of them is methodologically important: when philosophizing about potential wrongs that are not widely recognized, we have good reason to begin with the testimony of those who take themselves or others to

2 For an overview of country-specific conceptions of personality rights, see the Wikipedia entry for "personality rights."

3 I am grateful to Daniel Star for this way of putting the critics' point.

have been wronged and to use that testimony as a starting point in thinking about the potential wrongs in question. A bottom-up methodology that begins with testimonies of purported wrongdoing and then attempts to make sense of apparent wrongdoing by interrogating motivating assumptions, connecting these claims to recognized forms of wrongdoing and so on, is important in a domain where the very existence of the wrong is questioned.

The methodology used in this article is bottom-up in an additional way: I aim to avoid imposing a specific normative framework on the terrain from the outset. Instead, I allow the testimonies to guide the moral theorizing.

My examples are cases involving photographs in particular, not pictures in general. While similar complaints can perhaps be raised against the use of drawings, etchings, and other static images on the one hand, or videos, films, or other moving images on the other, I hope to show that photographs can wrong persons in unique ways due to what I describe as the symbolic value of photographs and the specific role that photographs of persons play in our admittedly contingent practices. At the same time, I acknowledge that the line between photographs and other types of images is often blurry, so to speak, and insisting on a sharp distinction between photographs and other images is not necessary for my argument.

1. MOTIVATING EXAMPLES: FEELING WRONGED BY A PHOTOGRAPH

To begin, consider the following two real-life cases in which a person reported feeling wronged by the creation, handling, or display of a photograph.

Abigail Roberson: Abigail Roberson, born in 1883, was a teenager when she had her photographic portrait taken in a Rochester, New York, studio for circulation among her friends and family. Without Roberson's knowledge or consent, the resulting portrait was subsequently sold and eventually became central to an advertisement for Franklin Mills Flour. The image showed Roberson in profile with the words "Flour of the Family" emblazoned above. Twenty-five thousand advertising posters featuring Roberson's image were created and distributed to stores, warehouses, saloons, and other public places, including some in Roberson's hometown of Rochester. The effects on Roberson were profound, and she filed a lawsuit alleging that she had "been recognized by friends . . . and other people with the result that [she] has been greatly humiliated by the scoffs and jeers of persons who have recognized her face and picture on this advertisement, and her good name has been attacked, causing her great distress and suffering both in body and mind; that she

was made sick and suffered a severe nervous shock, was confined to her bed and compelled to employ a physician.”⁴

Erno Nussenzweig: For his photographic series “Heads” (2000–2001), the photographer Philip-Lorca diCorcia rigged a strobe light on scaffolding in Times Square and, with a very long lens, took photographs of pedestrians walking by. Subjects did not know they were being photographed, and diCorcia did not ask for their consent after the fact. The resulting images are imposing, large-scale prints that have been exhibited in galleries around the world. When Erno Nussenzweig learned that his portrait, *Head No. 13, 2000*, was being sold for between twenty thousand and thirty thousand dollars in a Manhattan art gallery, he sued diCorcia and the gallery for damages. In part, Nussenzweig objected to the portrait on religious grounds, claiming that as an Orthodox Hasidic Jew, the portrait violated his freedom to practice religion insofar as diCorcia used his image in what Nussenzweig saw as a violation of the prohibition against graven images. But Nussenzweig also objected that the photograph constituted a *failure of respect*. As his lawyer put it, Nussenzweig felt he had “lost control of his own image” and resented that his dignity had been compromised.⁵

These two examples highlight the persistence of claims regarding photographic wrongs, despite widespread skepticism about their very existence. Nonetheless, it is important to recognize that these cases are distinct along several dimensions. For example, Nussenzweig seemed to feel wronged by the *creation* of the photograph, whereas Roberson reportedly felt fine about the creation of the photograph but wronged by the handling and dissemination of the image.

Through their creation, handling, display, or dissemination, photographs can arguably wrong a person or group in (at least) the following ways:

- by lying about the subject;
- by being created through deception;
- by presenting the subject in an objectionable light;

4 *Roberson v. Rochester Folding Box Company*, 171 NY 538 (1902).

5 Gafter, “The Theater of the Street, the Subject of the Photograph.” This case is also discussed in Bell, “Respecting Photographic Subjects.” The legal case *Nussenzweig v. DiCorcia* was decided in favor of the defendant by the Supreme Court, New York County, on February 8, 2006. The court ruled that the statute of limitations had expired, and the photograph was a work of art protected by free expression under the First Amendment. This ruling was upheld by the New York Supreme Court Appellate Division in March 2007; in November of that year, the New York Court of Appeals upheld previous decisions.

- by presenting something private about the subject;
- by financially exploiting the subject;
- by inappropriately aestheticizing the subject;
- by inappropriately sexualizing the subject;
- by trivializing the morally serious;
- by symbolically attacking the subject.⁶

But what our examples of Roberson and Nussenzweig bring out is that there may be a distinct, further way that photographs can wrong. In the next section, I argue for the existence of a type of wrong that I call nonconsensual *photographic front incursion*. I take the language of *front* from Erving Goffman's dramaturgical account of social interactions. As I argue, we may wrong someone

- by creating, altering, handling, or disseminating a photograph of someone without the subject's informed consent and without also lying about them, deceiving them through the creation of the photograph, presenting them in an objectionable light, presenting something private about the person, financially exploiting the person, aestheticizing them, sexualizing them, trivializing something morally serious, or symbolically attacking them.

As the description above indicates, this type of wrong is best understood negatively: it is constituted by a kind of disrespect that is separate from (although it can contribute to and amplify) the nine other photographic wrongs outlined above. While there is arguably an element of disrespect in all ten types of photographic wrongdoing, disrespect is central to nonconsensual photographic front incursion.

We might think it is unnecessary to introduce the concept of photographic front incursions because the sense of being wronged inherent in the two motivating examples can be captured by other, more familiar normative categories such as privacy. In fact, in their lawsuits, Roberson and Nussenzweig both claimed to suffer violations of privacy from the creation and dissemination of their images, but there is something puzzling about their claims: the images in question do not seem to reveal anything intimate, personal, or private about them. I do not attempt to provide an overview of philosophical theories of the moral right to privacy here, but our motivating examples are not easily characterized as privacy violations. Consider, as an illustrative example, Carissa Veliz's gloss on privacy:

6 For further discussion of these ways that photographs can wrong a person, see Bell, "On the Variety of Photographic Wrongs."

Privacy is the quality of having one's personal information and "sensorial space" unaccessed. You have privacy with respect to a certain person to the extent that that person does not know anything personal about you, and to the extent they cannot see, hear, or touch you in contexts in which people do not commonly want to be the object of others' attention.⁷

If this is how we should understand privacy, then it is difficult to see how our motivating examples could be understood as privacy violations. Nothing especially personal or intimate is revealed through the photographs of Roberson and Nussenzweig: the first is a conventional studio portrait, and the second shows the subject walking down a street in midtown Manhattan.

Despite this, I think there is something to Roberson's and Nussenzweig's claims to have been wronged through the creation and dissemination of these images. I argue that they were both victims of nonconsensual photographic front incursion insofar as they were disrespected as self-presenting agents. This form of wrongdoing cannot be reduced to any of the nine types of wrongdoing listed above.

2. MAKING THE CASE FOR A FUNDAMENTAL PHOTOGRAPHIC WRONG: PHOTOGRAPHIC FRONT INCURSION

In his lawsuit against diCorcia, Nussenzweig objected that the photograph of him, *Head No. 13, 2000*, constituted a form of disrespect. As his lawyer put it, Nussenzweig felt he had "lost control of his own image," and he resented that his dignity had been compromised.⁸ I think there is something to Nussenzweig's complaint, and I hope here to build on what he expressed. As I see it, diCorcia disrespected Nussenzweig as a self-presenting agent and, in so doing, wronged him in a distinct way.

To preview, I argue that photographers, image handlers, and exhibitors have a special duty of respect toward their photographic subjects *qua* photographic subjects when their subjects are clearly identifiable persons. This respect requires that subjects give their informed consent before having a photograph of them taken, handled, altered, or disseminated. Photographers and other image handlers disrespect photographic subjects when they take,

7 Veliz, "Self-Presentation and Privacy Online," 35–36. Other influential accounts of the right to privacy include Allen, *Unpopular Privacy*; Warren and Brandeis, "The Right to Privacy"; Carnegie-Arbuthnott, "Privacy, Publicity, and the Right to be Forgotten"; Inness, *Privacy, Intimacy, and Isolation*; Rachels, "Why Privacy Is Important"; Scanlon, "Thomson on Privacy"; and Thomson, "The Right to Privacy."

8 Geffer, "The Theater of the Street, the Subject of the Photograph."

handle, or alter photographs of identifiable persons without subjects' consent. This duty of respect has two primary grounds: our status as self-presenters and the ways in which photographs function as natural symbols of their subjects and thereby offer a distinctive tool of extending agency.⁹ When this duty of respect is flouted, subjects are wronged insofar as they are disrespected as photographic subjects.

2.1. *Kantian Respect and Photographic Wrongs*

While I think the wrong of photographic front incursion is best conceptualized as a distinct form of disrespect, it is worth pausing to consider why a standard Kantian account of respect for persons has difficulty capturing and making sense of the way that Roberson and Nussenzweig were wronged.

Kant's second formulation of the Categorical Imperative enjoins us to "act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means."¹⁰ In *Groundwork of the Metaphysics of Morals*, Kant seems to identify "humanity" with rational nature. For example, he writes, "the mere dignity of humanity as rational nature, without any other end or advantage to be attained by it—hence respect for a mere idea—is yet to serve as an inflexible precept of the will."¹¹ In *The Metaphysics of Morals*, Kant writes that humanity is "the power to set an end . . . any end whatsoever."¹² According to Thomas E. Hill, we should understand the "humanity" that we ought to respect as the powers necessary for rationality and end setting. Specifically, humanity includes the capacity to act on maxims and to follow hypothetical imperatives.¹³ Humanity is thought to include a type of freedom that nonhuman animals lack, including "the ability to foresee future consequences, adopt long-range goals, resist immediate temptation, and even commit oneself to ends for which one has no sensuous desire."¹⁴ Humanity includes acceptance of categorical imperatives, as well as a basic ability to

9 In "Respecting Photographic Subjects," I argue that subjects whose photographs are taken without their consent are wronged insofar as they are forced to take up an alien (and likely distorted) perspective on themselves, which they never consented to. I go on to argue that subjects' status as self-presenters is compromised insofar as they lack agency over how they are depicted in the photograph. Here, I expand on this second point and offer a sustained account of how photographic front incursion undermines persons' agency, given photographs' status as natural symbols.

10 Kant, *Groundwork of the Metaphysics of Morals*, 4:429.

11 Kant, *Groundwork of the Metaphysics of Morals*, 4:439.

12 Kant, *The Metaphysics of Morals*, 4:392.

13 Hill, "Humanity as an End in Itself," 86.

14 Hill, "Humanity as an End in Itself," 86.

process information about the world.¹⁵ As Hill reminds us, for Kant, “physical abilities are not part of humanity in us, for humanity is identified with our noumenal personality as distinct from the phenomenal, or observable, person.”¹⁶

As is clear from this brief summary of the standard interpretation of *what* we are enjoined to respect when we respect persons, the object of Kantian respect is not the *personas* or *bodies* of persons; instead, we ought to respect the *dignity* of persons as rational agents. But if this is right, how can taking a photograph of a person ever be a failure of respect? After all, photographs are images of persons’ physical bodies, not their noumenal selves. In other words, if we accept the standard view of what we ought to respect when we respect persons, there does not seem to be conceptual space for making sense of why Roberson and Nussenzweig felt disrespected.¹⁷

But Kant’s picture is complicated by the fact that he explicitly acknowledges that humans are *embodied* rational agents.¹⁸ The fact that we are embodied rational agents means that we are constrained, morally speaking, in what we can do to our own (and others’) bodies:

If the body were related to life not as a condition but as an accident or circumstance so that we could at will divest our selves of it; if we could slip out of it and slip into another just as we leave one country for another, then the body would be subject to our free will, and we could rightly have the disposal of it. This, however, would not imply that we could similarly dispose of our life, but only of our circumstances, of the moveable goods, the furniture of life. In fact, however, our life is entirely conditioned by our body, so that we cannot conceive of a life not mediated by the body and we cannot make use of our freedom except through the body. It is, therefore, obvious that the body constitutes a part of ourselves.¹⁹

Given that our life is “entirely conditioned by our body,” to respect our rational agency, we must also, to some degree, respect our bodies (even though, as

15 Hill, “Humanity as an End in Itself,” 86.

16 Hill, “Humanity as an End in Itself,” 86.

17 Davies presses a version of this point in exploring whether the relation between a photographic subject and their photograph should be understood as analogous to that between real people who serve as models for fictional characters and the subsequent fictional works, which have become known as *reality fiction*. See Davies, “Susan Sontag, Diane Arbus, and the Ethical Dimensions of Photography.”

18 Several Kantians stress the moral importance of our embodied nature. See, for example, Korsgaard, *Fellow Creatures*; and Herman, “We Are Not Alone.”

19 Kant, *Lectures on Ethics*, 147–48.

Barbara Herman notes, Kant has “distain for the body”).²⁰ This is what grounds some of Kant’s more notorious claims, e.g., that selling our hair is not “entirely free from blame” and that sexual gratification outside of marriage involves a failure to respect oneself and one’s partner. For Kant, we risk throwing ourselves away (i.e., disrespecting ourselves) if we treat our bodies in degrading ways, even if we do so consensually.²¹ Many of the examples of bodily degradation that Kant gives involve selling one’s body or parts of one’s body or allowing someone to use one’s body for sexual satisfaction. These arguments seem to turn on some rather controversial assumptions about what sort of behavior is intrinsically degrading to human beings *qua* embodied rational agents, and it is not clear why, for example, selling one’s hair is verboten, but selling one’s labor through the marketplace is permissible.²²

Some contemporary Kantians insist that our experience of being embodied creatures ought to shape how we understand and discharge our duties toward others. For example, Herman argues that in order to fulfill our duties to support and cooperate with others, we must rely on our experience of different sorts of ends that we have as embodied agents, as well as on the ways our embodiment may impede us (e.g., through pain or other physical limitations). It is through our knowledge of what we are like as sensible creatures and our relationships with other embodied creatures that we are able to discharge our duties.²³

While the standard view should be refined in light of Kant’s remarks about embodiment, it remains unclear what a Kantian should think about photographic front incursions. Although Kant’s writings can perhaps provide resources for answering questions about, say, the ethics of selling human organs, we need to move beyond Kant’s texts to understand the purported photographic wrong under discussion here. While Kant does offer limited remarks about our status as embodied rational creatures, these remarks are too sparse and too controversial to support a clear diagnosis of what went wrong in the motivating examples of Roberson and Nussenzweig. What we need is further guidance on how to engage with one another as merely contingent rational agents.²⁴

There is a way of thinking about photographic front incursions as an important kind of disrespect. What we ought to respect when we respect persons includes the tools those persons need to exercise their agency; and these tools

20 Herman, “Could It Be Worth Thinking About Kant on Sex and Marriage?” 54.

21 Kant, *Lectures on Ethics*, 119.

22 For discussion of these issues, see Chadwick, “The Market for Bodily Parts”; and Tadd, “The Market for Bodily Parts.”

23 Herman, “We Are Not Alone,” 166–67.

24 I owe this way of putting the issue to an anonymous reviewer.

include a reasonable degree of control over their faces and photographic images of their faces. While my approach goes beyond Kant's limited discussion of what is involved in respecting persons as embodied agents in important ways, it is fundamentally Kantian in spirit. My approach stresses what is involved in respecting contingent rational agents who are embodied and who must live together in complex social environments.

2.2. *Disrespecting Persons as Self-Presenters: On Front Incursions*

As I see it, the photographs in our motivating examples disrespect the subjects as embodied self-presenting agents.²⁵ To respect someone as a self-presenter is to regard her as sovereign over her agential penumbra, or what Goffman calls her *front*. Photographers and image handlers disrespect their subjects insofar as they intrude on this agential space without consent (and often for self-serving reasons) through a photo-creation or handling process. Photographic subjects are *disrespected* insofar as their personas are treated as a mere means to others' ends. This kind of disrespect constitutes a wrong. In these cases, insufficient deference is given to the tools that persons need to exercise their agency.

Goffman's account of persons as self-presenters has been influential in normative ethical theory, particularly in theorizing the nature and moral importance of privacy and concealment. For Andrei Marmor, the right to privacy is grounded in persons' interests in "having a reasonable measure of control over the ways in which they can present themselves (and what is theirs) to others."²⁶ Yet Goffman's account of self-presentation has a wider application than has been heretofore recognized. As I argue, Goffman's account provides the resources for conceptualizing an undertheorized category of wrongdoing: what I call *front incursions*.

Using the metaphor of a theatrical performance, Goffman develops a dramaturgical model of society, arguing that we can understand social relations as different types of performances. Like actors on a stage, individuals perform various roles in their everyday social interactions. Through what Goffman calls *face-work*, we use our appearance, environment, and fellow actors to help us

25 Goffman introduces the notion of self-presentation in *The Presentation of the Self in Everyday Life*. Velleman develops Goffman's views in an interesting way in "The Genesis of Shame" and *How We Get Along*. Goffman's work also influences Nagel, "Concealment and Exposure"; Marmor, "What Is the Right to Privacy?"; Olberding, "Looking Philosophical"; and Berstler, "Bad Question!" Other philosophers appeal to Goffman's notion of *civil inattention* in order to address a range of philosophical issues. See, for example, Rini, "Contingency Inattention"; Gelfert, "Disattendability, Civil Inattention, and the Epistemology of Privacy"; Basu, "The Importance of Forgetting"; and Sharon and Koops, "The Ethics of Inattention."

26 Marmor, "What Is the Right to Privacy?" 4–5.

successfully put on a performance, while also showing a willingness to uphold the performances of others. Our goal in these interactions is to manage impressions. As Goffman puts it, “a person’s performance of face-work, extended by his tacit agreement to help others perform theirs, represents his willingness to abide by the ground rules of social interaction.”²⁷

Central to Goffman’s model is the distinction between the front of the house (i.e., the performance space) and the back of the house (i.e., the space in which actors are free from the gaze of the audience and can let down their guard). When a person meets others, she attempts to guide others’ impressions of her through a complex pattern of actions involving her setting and appearance.

Goffman’s dramaturgical model is most clearly applicable to social spaces in which persons have explicitly defined roles, but we also engage in impression management in public spaces. According to Goffman’s account of *civil inattention*, we show an apt level of indifference to strangers we encounter in public spaces. Rather than stare outright at others or ignore their presence completely, we show others that we acknowledge their existence without burdening them with excess attention.

Little philosophical attention has been paid directly to Goffman’s conception of the front.²⁸ The front is the “expressive equipment” that performers must utilize to conduct their performance.²⁹ Following Goffman, we can distinguish two parts of the front: the setting and the personal front. The setting includes the decor, furniture, and other props that actors must utilize to create their performances. The setting usually stays put, and for this reason, it marks the spatial boundary of the performance.³⁰ The personal front, on the other hand, is comprised of those elements of expressive equipment that travel with performers (e.g., insignias, clothing, looks, postures, facial expressions, bodily gestures, and so on).³¹ As should be clear from Goffman’s list, the face plays a central role in an individual’s personal front. Not only do our faces individuate us, but to a large degree, we exercise our self-presentations *through* our faces; and this is why photographs of identifiable faces raise special ethical concerns.

27 Goffman, *Interaction Ritual*, 31. For a philosophical discussion of the role of poise in face-work, see Berstler, “Bad Question!”

28 One exception is Olberding, “Looking Philosophical,” but Olberding focuses on “the existential dislocation that arises when what my stuff says to me is at odds with what it says to others” (693), not on how persons can be wronged by the incursions of others into their “stuff.”

29 Goffman, *Interaction Ritual*, 22.

30 Goffman, *Interaction Ritual*, 22.

31 Goffman, *Interaction Ritual*, 23–24.

When a person is unable to exercise agency over her personal front or loses control through “unmeant gestures” or slips, this often leads to feelings of helplessness and shame.

While philosophers influenced by Goffman have brought out the interest that persons have in self-presentation, an important distinction has been elided. Our interest in having a reasonable level of control over our self-presentations is multidimensional, and there are at least two different types of control (and two types of corresponding interest) that are relevant: we can distinguish between having an interest in what I call *front/back boundary control* and having an interest in *front control*. We exercise front/back boundary control over what, precisely, is concealed or hidden from view of the audience. Assuming that Marmor’s argument is broadly correct, we have an interest in having a reasonable level of control over what we hide and reveal about ourselves to different groups of people.³² Paradigmatic privacy violations seem to violate this interest that we have in keeping some aspects of ourselves hidden from at least some others. Front control, on the other hand, is not about control over the boundary between the front of house and the back of house, or what persons choose to reveal or keep hidden from the audience. Instead, front control is focused on the expressive equipment we need as self-presenters, and it includes control over our setting and personal front.

If we think that persons have an interest in having a reasonable level of control over what they hide and reveal about themselves due to their status as self-presenters, we should also conclude that persons have an interest in having a reasonable level of control over our expressive equipment. This interest is distinct from privacy interests. To be a self-presenting agent is to be someone who has some control over her self-presentations and appearance; for someone to discover that they had bright red lipstick on their teeth after delivering a lecture is embarrassing because it is evidence that they lacked this kind of agency, at least momentarily.³³ Critically, to discover that you have lipstick on your teeth is *not* to discover that your privacy has been violated. Instead, it is to discover a momentary loss of front control. In the cases that are of interest

32 Marmor, “What Is the Right to Privacy?” 7. For his part, Marmor elides this distinction between front/back boundary control and front control, preferring to talk in terms of control over self-presentations more generally. While he seems to be primarily focused on front/back boundary control, he pivots to a focus on front control in his brief discussion of street photography at the end of his essay. In not distinguishing between front/back boundary control and front control, Marmor’s framework ends up reducing front incursions to privacy violations. As a result, his account of privacy is vulnerable to objection. See Veliz, “Self-Presentation and Privacy Online” for some objections to Marmor’s account.

33 For Velleman, this discovery is shameful.

to us here, someone fails to respect the agent's authority over her own front. Our interest in front control is important in itself, and it is also a precondition for front/back boundary control; if agents lack front control, they are unable to exercise front/back boundary control.

Caring about ones' status as a self-presenter should not be conflated with being vain.³⁴ A vain person thinks that his appearance merits high esteem from others; threats to his vanity such as a bad hair day might leave the vain person without a secure basis for self-esteem. But threats to one's status as a self-presenter are fundamentally different. Having apt agency over one's self-presentations does not merit esteem but a basic kind of recognition respect. Significant threats to one's status as a self-presenter undermine one's status as a person.³⁵ It is telling that Roberson reported feeling *humiliated* by the dissemination of her photographic portrait; humiliation is precisely the emotion we expect when someone's status as a self-presenter is threatened. As Goffman puts it, when there is a contradiction between who a person has avowed themselves to be and their performance, they are vulnerable to "immediate humiliation and sometimes permanent loss of reputation."³⁶

Of course, we should not confuse sovereignty with complete control; no one has complete control over how they appear to others. (Many items included in Goffman's personal front are, in fact, impossible to control.) Nor is this a goal worth striving for.³⁷ As Marmor notes, it is *good* that we lack complete control over our self-presentations: "Nobody should have too much control over the way they present themselves to others, as that would make manipulation, dishonesty, and generally, lack of authenticity, all too easy.... [But people do need] some reasonable amount of control over the ways in which they present different aspects of themselves to others."³⁸ It is also good that we lack complete control over our fronts. We often inadvertently reveal things about our character through our slips. A perfectly curated self-presentation raises questions about the authenticity of the person in question. But we need to be able to exercise at least *some* agency over our front to be intelligible as a person.

34 Bell, "Respecting Photographic Subjects," 296.

35 In "The Genesis of Shame," Velleman writes, "You thus have a fundamental interest in being recognized as a self-presenting creature, an interest that is more fundamental, in fact, than your interest in presenting any particular public image. Not to be seen as honest or intelligent or attractive would be socially disadvantageous, but not to be seen as a self-presenting creature would be socially disqualifying: it would place you beyond the reach of social intercourse altogether" (37).

36 Goffman, *The Presentation of Self in Everyday Life*, 59.

37 Marmor, "What Is the Right to Privacy?"

38 Marmor, "What Is the Right to Privacy?" 8.

Part of what is involved in respecting another as a self-presenting agent is respecting the authority she has over the tools she needs to exercise this agency. When someone creates or takes my image—especially an image of my face—and uses it for their purposes without my consent (or if the power differentials between us make it impossible to give my informed and uncoerced consent), they are not showing appropriate deference to the tools I need to exercise this agency, and because of that, they are disrespecting me as a self-presenter.

Admittedly, some people do not seem to care very much about having a reasonable level of control over their expressive equipment. Given this, we might wonder if there is actually an interest here worth taking seriously. In response, it should be acknowledged that many people do not seem especially concerned about maintaining front/back boundary control either. But we should not take this lack of care as a reason to conclude that there is no genuine interest in privacy. Instead, we ought to see this lack of concern as a regrettable failure to recognize a genuine human interest. Similarly, I do not think the fact that some people do not seem to care much about front control shows that there is no interest here worth protecting.

To sum up, I argue that persons have an interest in being able to exercise reasonable control over their self-presentations, but this interest should not be understood exclusively in terms of controlling the front/back boundary. We also have an interest in being able to exercise a reasonable level of control over our fronts. Respect for a person *qua* self-presenter should therefore include the recognition that persons have authority over their fronts; failing to recognize this authority evinces disrespect for persons as self-presenters. Photographic front incursion involves a failure to recognize that persons *qua* self-presenters have authority over the tools they need to exercise their agency. We should not use another person's front for our own aims and projects without her consent. Taking, manipulating, or displaying a photograph of an identifiable person without that person's consent constitutes an incursion on their front and is, for this reason, morally wrong.

Front incursion is a general and undertheorized type of wrongdoing that may not have any special connection to photographs. I have offered only a sketch of the wrong of front incursion here; I hope to offer a more sustained articulation on another occasion.³⁹ But presumably, one can show this type of

39 Carnegie-Arbuthnott argues that violations of privacy, distortion, and defamation can each be understood as picking out separate interests collected under the general category of the historic right of personality, which aims to protect our interest in our reputations ("Privacy, Publicity, and the Right to Be Forgotten"). In the future, I aim to explore whether front incursions should be understood using this taxonomy—i.e., as a distinct type of wrongdoing, related to but distinct from violations of privacy, distortion, and defamation.

disrespect for persons in a number of ways—e.g., by forcing prisoners of war to wear the uniforms and insignia of opposing forces, or by the unauthorized use of a person's office and letterhead.⁴⁰ I have yet to make the case for the existence of *photographic* front incursions. If we accept that front incursions are a type of wrongdoing, why should we think that the taking, handling, or dissemination of a photograph of a person without their consent constitutes a photographic front incursion? I turn now to this question. I argue that we can and regularly do extend our agency through photographs, since (some) photographs function as natural symbols of persons; because of this, photographs of a person are an important aspect of that person's front.

2.3. *Photographs as Part of a Person's Agential Penumbra*

We can distinguish between *conventional* and *natural* symbols. In considering the differing grounds for offense in flag desecration and mistreatment of dead bodies, Joel Feinberg appeals to this distinction as follows:

A flag is an arbitrary or conventional symbol of an abstraction, which bears no striking similarity to what it symbolizes. Rather it comes to represent a country only by virtue of a conventional understanding. . . . A dead body, on the other hand, is a natural symbol of a living person and needless to say has a striking similarity to the real thing.⁴¹

While photographic images are not discussed in this context by Feinberg, I contend that some photographs are *natural symbols* of persons in Feinberg's sense, given their close resemblance to the photographic subject.⁴² That is, photographs can bear a "striking similarity" to their subjects, and a photograph in which a specific person is centrally featured and recognizable is a natural symbol of that particular person. Of course, just as with corpses, not all photographs closely resemble their subjects; but in cases where this resemblance holds, the photograph of a specific person is a natural symbol of the person. Moreover, these photographs are clearer natural symbols of persons than paint-

40 For the former, see Rainsford, "Ukraine War." Regarding the second example, recall the incident on January 6, 2021, when Richard "Bigo" Barnett broke into Nancy Pelosi's office, put his feet up on her desk, used some of her stationary to write her a note (addressing her with a sexist slur), and then bragged to people outside the Capitol that he "took Nancy Pelosi's office."

41 Feinberg, *Offense to Others*, 55.

42 Why and how some photographs closely resemble their subjects is beyond the scope of this essay. For discussions of the epistemic and "contact" power of photographs, see Walton, "Transparent Pictures"; Hopkins, *Picture, Image, and Experience*; and Cohen and Meskin, "On the Epistemic Value of Photographs."

ings, insofar as they more closely resemble their subjects than most paintings.⁴³ More specifically, it seems to me that photographs that resemble their subjects can be what we might call both *generic* and *specific* natural symbols. DiCorcia's photograph of Nussenzweig, for example, is a natural, specific symbol of Nussenzweig himself, and depending on the context, it could also be a natural, generic symbol of Orthodox Jewish men, or of persons more generally.

Interestingly, some professional photographers spontaneously describe the persons they photograph as symbols. Consider the following two examples:

I always prefer to work in the studio. It isolates people from their environment. They become in a sense—symbolic of themselves. I often feel that people come to me to be photographed as they would go to a doctor or fortune teller—to find out how they are.⁴⁴

I love the people I photograph. I mean, they're my friends. I've never met most of them or I don't know them at all, yet through my images I live with them. At the same time, they are symbols. The people in my pictures aren't Mr. Jones or Mr. Smith or whatever; they're someone that crossed my path or I've crossed their path, and through the medium of photography I've been able to make a good picture of that encounter. They have a life of their own, but they are also are symbols [sic]. I would say that I respect the viewer, but I don't want to tell him everything. Hopefully, there's an element of mystery involved. I like him to look at a picture and say "Well, that that reminds me of someone [sic]" and make up a little story in his head, make him smile, brighten up his day. I think this is what I'm trying to achieve with my photographs.⁴⁵

Because natural symbols closely resemble what they symbolize, we tend to be especially emotionally troubled when these symbols are affronted. As Feinberg notes, people tend to react more strongly to, say, corpse mutilation than to flag desecration, and the reason for this turns on the distinction between natural and conventional symbols: "when one mutilates a corpse, one is doing something that looks very much like mutilating a real person, and the spontaneous horror of the real crime spills over on the symbolic one."⁴⁶ The language of

43 There are, of course, some drawings that are nearly indistinguishable from photographs (e.g., Chuck Close's photorealist portraits). Insofar as these images are indistinguishable from photographs, my arguments apply to them as well. It is also worth noting that Close's portraits are based on photographic images.

44 Richard Avedon, quoted in Sontag, *On Photography*, 187–88.

45 American Suburb X, "An Interview with Bruce Gilden."

46 Feinberg, *Offense to Others*, 55.

“spilling over” suggests that Feinberg may not take affronts to symbols seriously or see them as genuine affronts. In fact, Feinberg is somewhat ambivalent about the value of respecting symbols. He does explicitly say that it is important to respect certain symbols, but he worries that we can get so caught up in valuing a symbol of something that we risk neglecting or otherwise undermining the value symbolized.⁴⁷ For our purposes, what is helpful about Feinberg’s discussion of symbolic affronts is that it allows us to make sense of the possibility that we could wrong persons through the creation, dissemination, or handling of photographs. The strong resemblance between some photographs and some photographic subjects gives photographs a distinctive symbolic power.

Photographic natural symbols of a person are part of the agential penumbra of the person. For one important way that persons extend and exercise their agency is through the natural symbols of photographs. We do things like *endorse* a product or political candidate by attaching our photographic image to an ad campaign. We also *claim* a particular social media profile as our own using photographic images. We *identify* ourselves as the author of a book through an author photograph. We *socialize* on some online platforms by navigating a photographic avatar through virtual space. This agential extension through photographs may explain why predatory leaders such as Mao Zedong and Warren Jeffs often display photographs of themselves throughout the physical spaces of their organizations; these photographs serve to remind their followers of their presence and authority. Given these practices of extending agency through photographic image, we are vulnerable to wrongs such as misrepresentation through deepfakes or spoofing (e.g., using images of other persons to create fake accounts on social media).

47 “Granted that it is important that we respect certain symbols, it is even more important that we do not respect them too much. Otherwise we shall respect them at the expense of the very values they symbolize and fall into the moral traps of sentimentality or squeamishness” (Feinberg, *Offense to Others*, 72). Further, “sentimental actions very often are excessive responses to mere symbols at great cost to genuine interests, one’s own or others’. In the more egregious cases, the cherished symbol is an emblem of the very class of interests that are harmed, so that there is a kind of hypocritical inconsistency in the sentimental behavior. William James’s famous example of the Russian lady who weeps over the fictitious characters in a play while her coach man is freezing to death on his seat outside the theater is an instance of sentimentality of this kind. The error consists of attaching a value to a symbol and then absorbing oneself in the sentiments evoked by the symbol at the expense of real interests, including the very interests the symbol represents. The process is not consciously fraudulent, for the devotion to sentiment may be sincere enough. Nor does it consist simply in a conflict between avowal and practice. Rather the faulty practice is partly *caused* by the nature of one’s commitment to the ideal. Sentimental absorption in symbols distracts one from the interests that are symbolized” (75).

As I argue, part of what is involved in respecting a person as an autonomous agent is respecting the tools she needs to exercise her agency; to respect a person as an agent is to respect the authority she ought to have over the tools she needs to exercise her agency. When someone intentionally creates, disseminates, or alters a natural symbol of another person without that person's consent, they disrespect that person as a self-presenter. While taking this attitude toward a person is at the heart of the wrong, the resulting image constitutes a material souvenir of this wrongful attitude—a souvenir that can be reproduced and circulated, which shows an even deeper level of disrespect.

Some might object that diCorcia did not wrong Nussenzweig in taking *Head No. 13, 2000* because not everything associated with an individual's persona is part of the person's front: only those things that are expressive of persons' attitudes or role are properly included in their front. And in *Head No. 13, 2000*, Nussenzweig is not expressing any attitude at all, nor does his comportment suggest a particular role identity. Therefore, it may be objected, Nussenzweig's self-presentation has not been affected by diCorcia's photographing him.⁴⁸ While it is true that Nussenzweig does not seem to have a specific attitude or expression on his face, nor is he expressing a clear role identity in *Head No. 13, 2000*, I do not think that settles the matter of whether he has been wronged. As I emphasize, we *do* things with our personas: we use them to endorse, protest, criticize, stand behind, and so on. To be able to perform these activities, we need exclusive authority over our front and over photographic images of our front. It might well be a further wrong to use an image of someone expressing a particular attitude or displaying a specific role identity, but just taking and using the image itself is wrong.

As my response to this objection indicates, I do not claim (or deny) that Nussenzweig and Roberson were in fact *harmed* by the consequences of having their photographs printed and displayed. Instead, what I want to say is that to see and to treat an important part of another person's agency as a mere resource for one's own projects is to wrongfully disrespect the other, given our status as self-presenters and given the way that photographs, as natural symbols of persons, are used to extend our agency. Even if Nussenzweig and Roberson had never become aware of the existence of their photographic portraits, they still were disrespected through the attitudes and acts of the photographers involved.⁴⁹ In both cases, those who took and disseminated the photographs failed to acknowledge the authority that Nussenzweig and Roberson should

48 I am grateful to Alan Patten for raising this objection.

49 Bell, "Respecting Photographic Subjects," 297.

have had over their fronts, and it is this attitude of disrespect that is constitutive of the wrong of photographic front incursion.

This is not to say that the actual consequences of photographic interventions never matter. Intuitively, it seems much worse to take a photograph of someone without their consent and publish it on a highly visible social media platform than to take the same photograph and keep the image private or share it only with a few friends. And Roberson was explicit that her distress arose because of the ubiquity of the advertising posters bearing her image. But my attitude-based account of the wrong of photographic front incursion can make sense of this. The wrong inheres in the disrespect shown, but when photographic images are widely released, the attitude expressed is different and worse, morally speaking. Not only is the photographic subject disrespected as a self-presenter, but given that photographs are so easily circulatable and given that being wronged in this way is often connected to feeling humiliated, widely disseminating the image worsens the wrong insofar as it evinces an attitude of *complete* lack of concern for the vulnerabilities of being a self-presenter.

If I am right that wronging in this domain primarily attaches to a disrespectful attitude, does it follow that the creation, handling, or display of a photograph can be justified in the absence of the subject's consent so long as one is careful not to have a predatory attitude toward the subject and her agency? I do not think so. The way that we avoid having a predatory attitude is by garnering consent for the creation or use of the image; we cannot avoid the charge of predation by having good ends or by prefacing our use of another's image simply by saying "I mean no harm" or "I do not wish to offend."

As should be clear, the way to avoid photographic front incursion is to obtain the permission of photographic subjects; ideally, the resulting image is a product of collaboration between subject and image creator.⁵⁰ However there are many barriers to gaining informed consent in this domain. A significant power differential between photographer and subject may make it impossible for the two to collaborate. Richard Avedon's 1969 photograph *Andy Warhol and Members of the Factory, New York City* may offer an instance of this phenomenon: one of the subjects, Candy Darling, was, according to reports, in awe of Avedon and the circles he traveled in, and because of Darling's entrancement with Avedon, Arthur Danto argues that she allowed him to take a brutal image of her, which she would not otherwise have endorsed.⁵¹ Even if we resist Danto's interpretation of this photograph, there is no doubt that Avedon seemed to take pride in his power over others. Being starstruck may make it impos-

50 Bell, "Respecting Photographic Subjects."

51 Danto, "The Naked Truth."

sible to give informed consent. And in a very different way, mental illness or cognitive limitations may also constitute a barrier to giving informed consent. Adam Broomberg and Oliver Chanarin's *Ghetto* is a series of photographs that depict people living in "gated communities," broadly conceived.⁵² Some of the photographs feature patients at a psychiatric hospital. While Broomberg and Chanarin are quite self-conscious about the power differential between photographer and photographic subject, and they play with this power imbalance in this series by allowing the patients to trip the shutter themselves with a long release cable, it is clear that many of the subjects do not fully understand the project or what role their images play in it.⁵³

As I note at the end of the previous section, I do not mean to suggest that *photographic* front incursions exhaust the category of front incursions. There are, I concede, other ways of disrespectfully intruding on a person's front.⁵⁴ Not only could other visual mediums be used in front incursions (e.g., line drawings) but presumably so could nonvisual mediums like *romans à clef* or well-publicized gossip. As Samuel D. Warren and Louis D. Brandeis note in their groundbreaking work on privacy, "If you may not reproduce a woman's face photographically without her consent, how much less should be tolerated the reproduction of her face, her form, and her actions, by graphic descriptions colored to suit a gross and depraved imagination."⁵⁵ Of course, some work needs to go into showing precisely how these other activities constitute front incursions, but nevertheless, front incursions can take a variety of forms. Given this concession, why do I specifically focus on photographic front incursions here? First, photographic front incursions are more common than pen-and-ink front incursions or front incursions through *roman à clef*, and their relative ubiquity merits special attention. Second, in recent years, the public has become attuned to purported photographic wrongs such as "revenge porn," "digital blackface," and "sharenting"; and an account of photographic front incursions aids our understanding of the wrong-making features of these activities. Third, as I argue in this section, photographs serve a special function in how persons extend their agency, especially in online environments. Because of that, photographs are especially important features of our agential penumbra. This feature of photographs is of course contingent: there is a possible world

52 Broomberg and Chanarin, *Ghetto*.

53 Of course, if subjects are seriously cognitively disabled, they may not be self-presenters at all. In this case, we need another account of what is morally problematic about these photographs.

54 I am grateful to an anonymous referee for pushing me to say more about this point and suggesting the example of *roman à clef* as front incursion.

55 Warren and Brandeis, "The Right to Privacy," 214.

in which we use etchings or pen and ink drawings as our avatars rather than photographs. But in the actual world, there is a tighter connection between a person and a photographic likeness than there is between a person and an ordinary line drawing.

To sum up, we have a fundamental interest in having a reasonable level of control over our expressive equipment, including photographic likenesses. To date, philosophers have not acknowledged this distinct interest and have tended to conflate this interest with our interest in privacy. Front incursions are wrongful violations of the authority that persons should have over their fronts. This kind of incursion manifests disrespect for persons *qua* self-presenters. In some cases, those who engage in front incursions evince a predatory attitude toward the fronts of others. Some might say that diCorcia manifested this type of predatory disrespect through his photographic practices.⁵⁶ However, in many cases, the disrespect shown through front incursions is more inconsiderate than predatory.

When it comes to privacy, most theorists think we have a *right* to privacy, not simply an interest in it. Do we similarly enjoy something like a right to front authority, which is wronged in cases of front incursions? I believe we do, and this right to front authority is what should undergird personality rights and can shed light on a number of legal controversies surrounding the use of photographic likenesses. However, I save a full articulation and defense of this right for another occasion. What I show here is that we do, in fact, have an *interest* in having a reasonable level of control over our expressive equipment, and if we have a right to something like front authority, this right is grounded in our interest, *qua* self-presenters, to have a reasonable level of control over our fronts.

3. OBJECTIONS AND REPLIES

In completing my defense of the wrong of photographic front incursion, I consider and respond to two objections here. First, some may resist my arguments by pointing to cases in which taking, handling, or disseminating a photograph of someone without their consent seems obligatory or at least permissible. Consider, for example, the wide and nonconsensual release of photographs of Justin Trudeau in blackface in the years before his prime ministership.⁵⁷ Let

56 Some might say that the TikTok creator Harrison Pawluck also displays this type of predatory disrespect toward persons' fronts. See, e.g., Touma, "Melbourne Woman 'Dehumanized' by Viral TikTok Filmed Without Her Consent." I am grateful to an anonymous referee for suggesting this type of example.

57 I am grateful to Carlos Santana for suggesting this example of Trudeau and raising this worry about my position.

us assume for the sake of the argument that appearing in blackface is morally wrong, and it is in the public interest for reporters to report upon the serious wrongdoing of public figures. While we could learn that Trudeau routinely dressed in blackface from the testimony of witnesses, seeing photographs adds something that such testimony lacks. Arguably, seeing photographs allows us to better appreciate the wrong of appearing in blackface. For this reason, we might think distributing the photograph of Trudeau without his consent was permissible or even obligatory. This case and others like it put pressure on my claim that nonconsensual photographic front incursion is a genuine wrong.

I concede that taking, handling, or displaying a photograph without a subject's consent might be justified if doing so is a necessary means to protecting the subject's interests or prevent another wrong to her or others.⁵⁸ That is, I am conceiving photographic front incursion as a kind of *pro tanto* wrong; invading the front of another is wrong absent special justification. In other words, this type of incursion may be necessary to protect the subject's interests in an emergency, or this type of incursion may be necessary to prevent a wrong to the subject or to another person. According to this line of thought, the police may be justified in disseminating a photograph of a missing person without first asking for her consent, or, perhaps more controversially, an antipornography activist might be justified in showing pornographic images as part of a campaign aimed at ending abuse in the porn industry. When it comes to preventing wrongs to others, we might think we are justified in using someone's photograph without their consent in putting out an all-points bulletin, for example, in cases where we have good evidence that someone poses a future imminent risk to the public.

Turning back to the example of the photographs of Trudeau in blackface, clearly their dissemination does not protect Trudeau's interests. Perhaps in a slightly different version of the example, it could be argued that the release of the images was a necessary means to prevent future wrongdoing. Yet in the actual case, it seems unlikely that the wrongful behavior in question was going to continue in the future; odds are that Trudeau the prime minister would

58 As part of their argument defending the wrongfulness of observing humiliating acts, Frowe and Perry argue that observation might be justified in cases where the observation benefits the victim. These include cases where observation is a necessary means of ending ongoing wrongdoing ("Wrongful Observation," 134). But they also suggest that observation might be justified in a wide variety of cases: "Observation may, for example, enable one to corroborate the victim's evidence in a subsequent prosecution, to show solidarity with the victim, or ensure that she will not be forgotten" (135). Although they go on to say that, in these cases, observation wrongs the victim if she has made it clear that she does not want to be observed. In addition, they assert that even if observation wrongs the victim, it does not follow that it is unjustified; sometimes we may permissibly infringe someone's right to non-observation in order to bring about greater benefits to others (135).

not continue dressing up in blackface. If this is right, then I would like to push back against the claim that the release of these images was permissible or even obligatory. While I can feel the pull of the intuition that members of the public are owed access to images of past wrongdoing of public figures, I think we ought to resist this idea. While the public may have a right to know about past wrongdoing that is relevant to a public figure's role responsibilities, we do not have a general right to *photographic* access to these wrongdoings. In this case, I believe that disseminating the photographs without Trudeau's consent was a wrongful photographic front incursion.

Second, many will balk at the claim that respecting photographic subjects requires that we always garner their informed consent because accepting this claim requires us to significantly alter our practices in ways that threaten other important values; for these reasons, the position defended here might seem overly demanding.⁵⁹ Would a photographic subject have a basis to complain if, for example, she attended a protest and a photograph of her participating in the protest is published the next day in the local paper without the photographer getting her consent?⁶⁰ In this case, the purported rights of the photographic subject seem to be directly at odds with the public's right to know about current events.

More generally, if the arguments of this article are sound, we also have reason to criticize much street photography.⁶¹ While some street photographers do seek consent from their subjects before taking photographs, many do not. And even those photographers who ask for consent often do not attempt to garner fully informed consent that would allow the subjects to see exactly how the photographer intends to use their image. Questions can also be raised about the ethics of seemingly innocuous activities such as collecting photographic portraits.⁶² The very act of curating a photographic collection involves quickly sorting through large numbers of photographic images, keeping those that fit

59 Some insist that we have a right to photograph that is grounded in our right to be informed. See Martinez and Renteln, "The Human Right to Photograph." Yet if the arguments of this article are sound, they seem to conflict with this purported right to photograph.

60 As an anonymous reviewer points out, the example involving photographing protesters is complicated by the fact that protesters are presumably self-consciously engaged in active face-work in a way that a pedestrian walking down a city street is not. Because of this, taking a photograph of protesters without their express consent seems like less of an incursion. Still, there is some reason to worry even here since the resulting images could be misrepresentative of what the subjects wish to convey. Additionally, in some contexts, being photographed at a protest could open the photographic subjects up to retaliation.

61 See Hadley, "Street Photography Ethics."

62 I owe this example to Julia Driver. Similar concerns can be raised regarding posting photos on online photographic collection sites such as <https://internetkhole.com> and <https://awkwardfamilyphotos.com>.

the collection and discarding those that do not. Does it follow that a collector who sorts through photographs in this way wrongs the subjects? In these and other cases, avoiding the apparent wrong of disrespecting a photographic subject seems to come at the expense of other values such as the public's right to be informed, the aesthetic value of candid street photography, and the value of seemingly innocuous hobbies like collecting photographic images.

As I have characterized photographic front incursion, at the heart of it is a certain *attitude*: persons are disrespected as self-presenting agents, and their personas are treated as mere means to others' ends. This attitude can be expressed in all these examples. So according to my argument, it is possible to wrong persons through these activities. However, there are many other values that are in play in these cases. There are aesthetic values, historical values, personal project values, and a person may, in a given instance, have overriding reason to create, manipulate, or disseminate photographic images of persons without their consent, despite the wrong done to photographic subjects.

While I do not have a recipe for how to balance the conflicting values at work in these cases, providing guidelines for resolving these conflicts is not really my aim here. Instead, my goal is to make the case for the existence of a type of wrong—nonconsensual photographic front incursion—that has not yet received philosophical attention. The account can help to make sense of certain attitudes that photojournalists, street photographers, and collectors may experience: the internet is full of advice aimed at helping street photographers and other photo handlers to get over their feelings of anxiety and trepidation about taking photos of people on the street, but if I am right, there is good reason for feeling uneasy when engaged in these activities. These feelings of discomfort may be accurately tracking the moral terrain; if my arguments are sound, these seemingly innocuous activities involve the commission of an unrecognized *pro tanto* wrong of photographic front incursion. While these activities might turn out to be all-in justified, depending on how we weigh competing values, my arguments suggest that there is an important moral remainder that merits our consideration.

It may be objected that if my arguments go through, I have set the bar for wronging someone as a photographic subject far too low. Many of us live in environments where we are constantly being photographed. Security footage is often taken of us without our knowledge or consent. To conclude that we are constantly being wronged by this activity seems to stretch the notion of wrongdoing too far. In response, I stress that the wrong of failing to respect someone as a photographic subject involves more than simply the creation of a photograph. Rather, failing to respect someone as a photographic subject involves one person (the photographer or image handler) taking or using an

image of another person to express the former's ideas without any collaboration with the subject. In the case of security cameras, there is no agent who is using another person's appearance in this way.

4. CONCLUSION

In this article, I have argued for the existence of a distinctive type of a general photographic wrong: nonconsensual photographic front incursion. If we acknowledge the existence of photographic front incursions, many further questions need to be answered: Are photographs of groups of people *less* likely to involve front incursions, or do these photographs pose the same problems outlined in this essay? What should we think about photographs of people whose faces are not clearly visible? Do we have any reasons to object to photographs of persons who are *not* self-presenters and who cannot consent to being photographic subjects, such as the severely cognitively disabled?

To date, many philosophers have not taken the existence of photographic wrongs seriously, beyond the ways photographs can be involved in privacy violations. Part of the reason for this neglect is rooted in the fact that photographs of persons are, by their very nature, representations of persons' bodies or personas, and philosophy has historically not taken persons' embodied natures as seriously as it should. In addition, in our collective social lives, photographs function as natural symbols of the photographic subjects, and philosophy has had surprisingly little to say about symbolic wrongdoing and symbolic valuation more generally. Thus, while my main aim is to make the case for the existence of a heretofore unrecognized type of wrongdoing, I hope this discussion also brings to the fore the variety of ways we can be wronged as embodied social creatures.⁶³

Bryn Mawr College
mcbell@brynmawr.edu

63 I am very grateful to two anonymous referees for the *Journal of Ethics and Social Philosophy* for their insightful comments and criticisms. Thanks also to editors-in-chief Sarah Paul and Matthew Silverstein and managing editor Chico Park for all their help shepherding the essay through the review process. Previous versions of this article were presented at the SIPP@Brown Conference; American Society for Aesthetics (Rocky Mountain Division) Conference; Centre for Ethics, Philosophy, and Public Affairs, University of St. Andrews; and the Center for Human Values, Princeton University. I am very grateful to the audiences at these events for their questions and objections. Liz Harman and Daniel Star provided helpful critical comments on earlier drafts of this essay. Finally, I am grateful to Princeton's Center for Human Values and Bryn Mawr College for support.

REFERENCES

- Allen, Anita. *Unpopular Privacy: What Must We Hide?* Oxford University Press, 2011.
- American Suburb X. "An Interview with Bruce Gilden: Spontaneity, Elegance, and Being Yourself." October 1, 2010. <https://americansuburbx.com/2010/10/interview-interview-with-bruce-gilden.html>.
- Basu, Rima. "The Importance of Forgetting." *Episteme* 19, no. 4 (2022): 471–90.
- Bell, Macalester. "On the Variety of Photographic Wrongs." Unpublished manuscript.
- . "Respecting Photographic Subjects." In *Portraits and Philosophy*, edited by Hans Maes. Routledge, 2019.
- Berstler, Sam. "Bad Question!" *Philosophy and Public Affairs* 51, no. 4 (2023): 413–49.
- Broomberg, Adam, and Oliver Chanarin. *Ghetto*. Trolley, 2003.
- Carnegy-Arbuthnott, Hannah. "Privacy, Publicity, and the Right to Be Forgotten." *Journal of Political Philosophy* 31, no. 4 (2023): 494–516.
- Chadwick, Ruth F. "The Market for Bodily Parts: Kant and Duties to Oneself." *Journal of Applied Philosophy* 6, no. 2 (1989): 129–39.
- Cohen, Jonathan, and Aaron Meskin. "On the Epistemic Value of Photographs." *Journal of Aesthetics and Art Criticism* 62, no. 2 (2004): 197–210.
- Coleman, A. D. "Private Lives, Public Places: Street Photography Ethics." *Journal of Mass Media Ethics* 2, no. 2 (1987): 60–66.
- Danto, Arthur. "The Naked Truth." In *Aesthetics and Ethics: Essays at the Intersection*, edited by Jerrold Levinson. Cambridge University Press, 2001.
- Davies, David. "Susan Sontag, Diane Arbus, and the Ethical Dimensions of Photography." In *Art and Ethical Criticism*, edited by Garry Hagberg. Blackwell, 2008.
- Feinberg, Joel. *Offense to Others*. Oxford University Press, 1984.
- Frowe, Helene, and Jonathan Perry. "Wrongful Observation." *Philosophy and Public Affairs* 47, no. 1, (2019): 104–37.
- Geffer, Philip. "The Theater of the Street, the Subject of the Photograph" *New York Times*, March 15, 2006.
- Gelfert, Axel. "Disattendability, Civil Inattention, and the Epistemology of Privacy." *Philosophical Analysis* 31 (2014): 151–81.
- Goffman, Erving. *Interaction Ritual: Face-to-Face Behavior*. Pantheon Books, 1967.
- . *The Presentation of the Self in Everyday Life*. Doubleday, 1959.
- Hadley, John. "Street Photography Ethics." *Ethical Theory and Moral Practice* 25 (2022): 529–40.

- Herman, Barbara. "Could It Be Worth Thinking About Kant on Sex and Marriage?" In *A Mind of One's Own: Feminist Essays on Reason and Objectivity*, edited by Louise M. Antony and Charlotte Witt. Westview Press, 1993.
- . "We Are Not Alone: A Place for Animals in Kant's Ethics." In *Kant on Persons and Agency*, edited by Eric Watkins. Cambridge University Press, 2017.
- Hill, Thomas E., Jr. "Humanity as an End in Itself." *Ethics* 91, no. 1 (1980): 84–99.
- Hopkins, Robert. *Picture, Image, and Experience*. Cambridge University Press, 1998.
- Inness, Julie C. *Privacy, Intimacy, and Isolation*. Oxford University Press, 1992.
- Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Translated and edited by Mary Gregor. Cambridge University Press, 1997.
- . *Lectures on Ethics*. Translated by Louis Infield. Edited by Louis White Beck. Hackett Publishing Company, 1963.
- . *The Metaphysics of Morals*. Translated and edited by Mary Gregor. Cambridge University Press, 1996.
- Korsgaard, Christine. *Fellow Creatures: Our Obligations to the Other Animals*. Oxford University Press, 2018.
- Linfield, Susie. *The Cruel Radiance: Photography and Political Violence*. University of Chicago Press, 2010.
- Marmor, Andrei. "What Is the Right to Privacy?" *Philosophy and Public Affairs* 43, no. 1 (2015): 3–26.
- Martinez, Michel Angela, and Alison Dundes Renteln. "The Human Right to Photograph." In *Images and Human Rights: Local and Global Perspectives*, edited by Nancy Lipkin Stein and Alison Dundes Renteln. Cambridge Scholars Publishing, 2017.
- Nagel, Thomas. "Concealment and Exposure." *Philosophy and Public Affairs* 27, no. 1 (1998): 3–30.
- Olberding, Amy. "Looking Philosophical: Stuff, Stereotypes, and Self-Presentation." *Hypatia* 30, no. 4 (2015): 692–707.
- Rachels, James. "Why Privacy Is Important." *Philosophy and Public Affairs* 4, no. 4 (1975): 323–33.
- Rainsford, Sara. "Ukraine War: The Mothers Going to Get Their Children Back from Russia." *BBC News*, May 30, 2023. <https://www.bbc.com/news/world-europe-65641304>.
- Rini, Regina. "Contingency Inattention: Against Causal Debunking in Ethics." *Philosophical Studies* 177, no. 2 (2019): 369–89.
- . "Deepfakes and the Epistemic Backstop." *Philosophers' Imprint* 20, no. 24 (2020): 1–16.
- Rini, Regina, and Leah Cohen. "Deepfakes, Deep Harms." *Journal of Ethics and*

- Social Philosophy* 22, no. 2 (2022): 143–61.
- Scanlon, Thomas. “Thomson on Privacy.” *Philosophy and Public Affairs* 4, no. 4 (1975): 315–22.
- Sharon, Tamar, and Bert-Jaap Koops. “The Ethics of Inattention: Revitalizing Civil Inattention as a Privacy-Protecting Mechanism in Public Spaces.” *Ethics and Information Technology* 23, no. 3 (2021): 331–43.
- Sontag, Susan. *On Photography*. Picador Press, 1973.
- . *Regarding the Pain of Others*. Farrar, Straus and Giroux, 2003.
- Tadd, G. V. “The Market for Bodily Parts: A Response to Ruth Chadwick.” *Journal of Applied Philosophy* 8, no. 1 (1991): 95–102.
- Thomson, Judith Jarvis. “The Right to Privacy.” *Philosophy and Public Affairs* 4, no. 4 (1975): 295–314.
- Touma, Rafqa. “Melbourne Woman ‘Dehumanized’ by Viral TikTok Filmed Without Her Consent.” *Guardian*, July 14, 2022. <https://www.theguardian.com/technology/2022/jul/14/melbourne-woman-dehumanised-by-viral-tiktok-filmed-without-her-consent>.
- Veliz, Carissa. “Self-Presentation and Privacy Online.” *Journal of Practical Ethics* 9, no. 2 (2022): 30–43.
- Velleman, David. “The Genesis of Shame.” *Philosophy and Public Affairs* 30, no. 1 (2001): 27–52.
- . *How We Get Along*. Cambridge University Press, 2009.
- Walton, Kendall. “Transparent Pictures: On the Nature of Photographic Realism.” *Critical Inquiry* 11, no. 2 (1984): 246–77.
- Warren, Samuel D., and Louis Brandeis. “The Right to Privacy.” *Harvard Law Review* 4, no. 5 (1890): 193–220.