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Six Cases for Discussion:

ETHICAL ISSUES IN PHOTOGRAPHY

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Ethics are principles reflecting the values of a society—guidelines for its members to treat each other fairly according to accepted ideals. Needless to say, reality often differs markedly from the ideals, but civilizations, organizations and informal groups of all kinds have understandings of ethical conduct. Within a group, ethics may be broadly accepted in general terms, but issues arise in their interpretation and application. Ethics can be especially contentious with changing times and diversities of culture and technology.

In the practice of photography, ethical issues tend to arise over the nature of creativity, representation, ownership, profit and service, often confused by the application of new technologies and exacerbated by cultural preferences or political ideology, and of course individual personality and ambition.

This article illustrates six contemporary ethical questions of photography, and suggests resolution (i.e., “IMHO”—in my humble opinion).

Case #1: Image of a Tragedy for Sale

Situation: A devoted photographer—an aspiring professional or passionate artist—always carries a camera at the ready. The photographer happens to witness a horrific catastrophe, and is the only person to capture the event on film. A media company, eager to acquire the images for broadcast, offers the photographer \$500,000 for the images and copyrights.

Question: Is it ethically wrong for the photographer to accept the large sum, because it would mean profiting from awful misfortune?

Discussion: The appearance of benefiting from tragedy often gives rise to controversy. In the case of a photographer receiving payment for recording calamity, opposing viewpoints appear related to perspectives on profit.

Profit as Legitimate Reward

People who see profit as a fair return for providing a valued service, at least in principle, would tend to argue the photographer is not profiting from a tragedy, but is providing a valued service in communicating the event. And that the photographer should not feel guilty about receiving the money, even a large sum that can be said to reflect its information value. A plausible line of reasoning is that the photographer, having devoted much of their life to the craft, can be seen as receiving a lump-sum payoff for having been out with their camera and “ready” to record history when it happened (and presumably in a high-quality, technically proficient manner.) A secondary consideration is that a large part of any extraordinary one-time payment would be paid out in taxes, benefiting society as a whole.

Profit as Excess

On the other hand, people who are innately suspicious of profit or its substantial temptations of human weakness, and concerned about its magnitude or broader questions of social justice, may disparage a substantial payment to the photographer. From this perspective, as a matter of equity, the victims or their families should have priority entitlement to any flow of funds resulting from the tragedy. Another objection could be that the photographer should not be so amply rewarded for the quirk of being at a certain place at a certain time in connection with a tragedy.

The answer may be further blurred by the circumstances of the photographer. The argument is strongest for compensation if the photographer is a monetarily poor, struggling artist, having worked full-time at the craft with only marginal return.

In my judgment, a solution would be to share a proportion of any after-tax windfall with those affected by a tragedy that I would chance to photograph.

The Diane Arbus Analogy

The question of payment for an image of misfortune is somewhat similar to that raised by photographic ethicists about the work of Diane Arbus (see **Diane Arbus Revisited**, *Shutter Release*, February 2004). Arbus’s career, which was a financial struggle, depended on images of people at their worst: emotionally or physically challenged, in red-light districts, or otherwise down and out. Yet Arbus reportedly always asked permission of her subjects before photographing them. She purported to show empathy for her subjects, proclaiming that society needed to see what it shuns. For these reasons, a slight majority of photographic critics vindicated her in a new round of publicity in 2003-2004 in connection with a retrospective of her work.

Case #2: Props

Situation: In an actual case, a renowned, talented landscape photographer was arrested and fined after fires he had set as a backdrop for night photography grew out of control and caused damage to natural formations at Arches National Park in Utah.

Question: Nobody disputes the photographer was wrong to have started fires when it was clearly against park rules, and contrary to good sense. But what if fires were allowed, and could be safely controlled? Is it ethical for photographers to add “props” to a scene to make it appear more dramatic or photogenic, when in fact the scene never really looks that way?

Answer: Searing tongues of flame as a backdrop would make even as dull a space as my front lawn look spectacular. Yet such an image would be a total dramatization. As a rule, photography for any purpose that purports to represent how a place looks should not have props, because it is deceptive: not the reality of its normal appearance. On the other hand, props are acceptable for purposes of abstract art (which as a rule excludes landscape photography) or when it is otherwise clear to the majority of viewers that the scene has likely been spiced up with special effects.

Case #3: Using Another Photographer’s Perspective

Situation: At a gallery show, you come upon a highly intriguing image of a building taken from a particularly artistic perspective. You imagine doing the same, possibly under different lighting conditions, and using different equipment, but essentially an identical composition. From the title, you research the subject, find the location, and take your version of the scene. In a moment of reflection, you admit to yourself that even had you been aware of that building, you probably would not have imagined taking it from the particular perspective you are emulating. Still, reasoning that the building is there for anyone to photograph, you enter the image in a photography competition, and it easily wins.

Question: Is it plagiarism to copy the artistic perspective of the original photographer?

Answer: The building, indeed, is there for all to see and photograph. Yet in this situation, a photographer copied the exact perspective that was creatively devised by another photographer. By exhibiting the photo without crediting the original photographer, the second photographer gets credit for the originality of the first. Whether or not the second photographer has ‘improved’ the image, the conscious replication of the original perspective is tantamount to plagiarism, in my view, if the image is publicly displayed and the original photographer not given credit. Moreover, selling the image would be wrong, in my view, because it would be profiting from the creativity of another.

Case #4: Digital Improvement of Substance

Situation (1): An architectural photographer digitally removes a distracting street sign and streetlamps from an image of a new building intended to publicize the structure in an architecture magazine.

Situation (2): A landscape photographer makes digital adjustments to an image of a sunset, deleting some treeline clutter that detracts from the view, and extends the image of the sun to those areas.

Question: Are these digital adjustments unethical because reality has been altered, making the images deceptive?

Answers: The key to resolution is in the expectations of viewers. Similar to the principle applied to props, it is not unethical to improve the appearance of reality in an image, digitally or through the traditional darkroom, if the majority of viewers understand that it may have been done. In Situation (1), digitally improving the architectural image intended for publication should not be a problem. Among professional and other knowledgeable readers, it is understood that such “model” images are commonly improved to the extent of removing extemporaneous clutter. In other words, most observers would not be surprised, although they would not know exactly what had been removed.

With regard to the sunset in Situation (2), digital improvement is problematic. Viewers of landscapes assume that the image reflects reality to the extent that objects are not removed or added. Mood-enhancing darkroom adjustments that darken or lighten are accepted and indeed commonly assumed; but digital adjustments that remove and replace whole objects in landscapes are not expected or accepted.

Case #5: Digital Additions to Substance

Situation: An architectural photographer is employed to take pictures of model homes for publication in advertising. The images are of actual housing, but the photographer is asked to make extensive digital modifications to add non-existent features such as garages and porches, with the understanding that the extras would be available to home buyers at additional cost.

Question: Is it wrong to include fictional features in such an image for marketing and sales purposes?

Answer: The house is understood to be a model with optional features; therefore, any photo is but a possibility, and a salesperson would normally explain available options. Still, an airtight ethical solution would add a footnote with the advertising to indicate the pictured house was digitally enhanced to include optional features.

Case #6: Making Up for Bitter Disappointment

Situation: You travel on a costly expeditionary holiday, say to Paine National Park in the Patagonian Andes in southern Chile, principally for photography. Sadly, the weather is overcast the entire week you are there. Alas, when you hiked 6 hours on the least-overcast day to the best vantage point to photograph the mountains, they were not visible. As you are leaving the park on the last day, the sun emerges, but it is too late. A photographer in a group coming into the park sympathizes with your plight, and offers to send you copies of images he will be taking from the same vantage point with a similar camera.

Question: You graciously accept the offer, and weeks later receive the gorgeous images. You are tempted to display them as your own—had not you earned the right, even set up your camera, and couldn't you have done the same or better? [Note: I witnessed such a group of totally crestfallen photographers emerge from Paine National Park, and a member of my group, which was entering the park, made such an offer.]

Answer: Not a difficult case: it would be unethical—dishonest, of course—to take credit for images taken by another person. But by exhibiting the images duly credited to the actual photographer, and explaining the situation, the crestfallen traveler could share the beauty and further gain respect and some empathy.

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