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Post-mortem photographs – challenges and experiences of open access

Abstract Online access to difficult cultural heritage in photography collections raises many legal and ethical questions. Although the aim of museums and collective cultural organizations is an objective view of history, it is worth thinking how to represent post-mortem photographs online. This study attempts to initiate a discussion on the tradition of post-mortem photographs, discuss the meaning of those difficult and sensitive images and explore the challenges and experiences faced with providing online open access to post-mortem photographs.

Keywords post-mortem photographs, open access, legislation, online collections

1. Introduction

When publishing any kind of photographs online, a museum faces legislative boundaries and ethical questions. If a picture collection aims to publish especially sensitive photographs, such as post-mortem photographs, it has to give even more thought to several issues, such as: why it is important to make post-mortem photographs open and how to ensure that legislation and ethical issues are properly followed.

Helsinki City Museum published quite recently over 30,000 photographs online. This paper describes the process and focuses especially on post-mortem photographs. The paper first gives a brief overview of the studies of post-mortem photography. It will then move on to the tradition of post-mortem photography in Finland. Chapter 4 describes open access to museum collections in general and chapter 5 focuses on the challenges. Ethical issues are discussed in chapter 6 and an introduction to legal aspects is in chapter 7. In conclusion, we give examples of what kind of impact open access to post-mortem photographs has had on Helsinki City Museum.

2. Previous studies of post-mortem photographs

In Finland, there is no tradition of post-mortem photography research as in England and America (e.g. Burns 1990; Ruby 1995; Linkman 2006). Most of studies in Finland have been from the view point of ethnography, folkloristics or thanatology (e.g. Nenola 1985; Utriainen 1999; Kemppainen 2006; Hakola 2014; Laiho, Kaunonen and Aho 2014; Pajari 2014; Schuurman and Laurén 2016). Only a few Finnish research papers are discussing deeply post-mortem photographs in Finland. Some contributions about the subject do exist: e.g. Hannu Sinisalo's book (1981) and Seija Ulkuniemi's dissertation (2005, 75–76; 114–117), but most historical research of Finnish photography only briefly mentions the subject – sometimes only in caption of post-mortem photography (e.g. Kukkonen, Vuorenmaa and Hinkka 1992, 13; 61).

It is not difficult to understand why post-mortem photography has attracted so little attention in Finnish photography histories and among photography historians. Post-mortem photographs have not been at the center of picture collections. They are relatively few in comparison to the overall size of collections and they also somewhat hide inside the collections. As collections



Fig. 1: 4-year-old girl, Taimi Hildén (1907–11), at home. She died after a sledge fell on her in the yard of her home at Ruoholahdenkatu 2 in Helsinki. Photo: Atelier Apollo, 1911 © Helsinki City Museum. CC BY 4.0.

are arranged alphabetically by photographer or order and there is not an archive unit named post-mortem photographs, finding them is complicated. Also Helsinki City Museums Picture Collection's post-mortem photographs have been largely invisible before they have been opened online.

3. Tradition of post-mortem photography in Finland in the 19th and early 20th centuries

Post-mortem photography (also known as memorial portraiture or a mourning portrait) is the practice of photographing the recently deceased. These photographs of deceased loved ones were a normal part of American and European culture in the 19th and early 20th centuries. In the late 19th and early 20th centuries, in post-mortem photographs the departed were



Fig. 2: Mrs Johanna Lyytikäinen in a coffin at the yard of her home at Punavuorenkatu 21. From the left: Johannes Lyytikäinen, the deceased's father-in-law, Arvi Lyytikäinen, engineer, her husband, Arvis's brother Leonard Lyytikäinen, his son Yrjö and wife Ida. Photo: unknown photographer, 1898 © Helsinki City Museum. CC BY 4.0.

photographed and memorialized in a studio or at the funeral. (Burns Archive 2016). As the example figures of this paper support, the tradition in Finland is quite similar to that in Europe, but has more to do with the Scandinavian tradition. In Scandinavia, it seems to be more popular to have photographs of the deceased in a coffin with a large group of family and funeral attendees. Post-mortem photographs were a remembrance for family members, and were often given *as carte de visite* to relatives. Requested by the grieving families, post-mortem photographs not only helped with grieving, but often represented the only visual memory of the deceased.

Figure one (p. 40) is a typical example of Finnish post-mortem photograph. It has been taken by professional photographer Atelier Apollo in 1911. The photographer was invited to the little girl's home. The white coffin has been put on the table with a white tablecloth. The deceased has white clothes, her head has been turned to the photographer and she has a garland on her head.

She has also small bouquet of lilies of the valley in her hand. The photograph shows the little girl as beautiful as possible, looking more like sleeping peacefully than dead.

Figure two (p.41) shows the most common post-mortem photography style in Finland. Unknown photographs from the year 1898 shows the deceased, the mother of the family, in a coffin with her family posing behind. The black coffin has been brought out in winter and decorated with flowers and pine branches. The deceased has white clothes and she looks peaceful.

Both figures are evidence of a time when death was a normal part of life. People died in their homes and they were prepared for the funeral at home. This tradition continued in Finland until the Second World War. After it, death and the funerals moved from homes to hospitals and to the hands of professionals like doctors and undertakers. As Michael C. Kearl suggests: “With modernization, medicine has replaced religion as the major institutional molder of cultural death fears and immortality desires” (Kearl 1989, 406). Little by little, the tradition of post-mortem photography decreased (Sinisalo 1981, 60). Death and post-mortem photographs became taboo. As Freud argued in psychoanalytical terms, taboos are rooted in unconscious guilt and are productive of much neurotic suffering (Freud 1989).

Since the late 1960s, media images of the dead started to be a part of photojournalism. Media has made death and photographs of deceased part of our everyday life – yet most of us are less comfortable with the idea of photographing post-mortem pictures for private use. As Jay Ruby claims, people who wish to obtain post-mortem or funeral photographs face a personal conflict and potential public disapproval if they take a picture or commission someone to do so (Ruby 1995, 25).

4. Open access to museum collections

Providing open access to collections has been a prominent trend in the museum world in recent years. Acclaimed international museums that have made their collections available online as web-quality or print-quality versions include, for instance, The Metropolitan Museum of Art in New York and Rijksmuseum in Amsterdam.

In Finland, opening collections online is a logical continuation of Finland’s culture policy and co-operation in the gallery, library, archive and museum (GLAM) sector in Finland. The Finnish Ministry of Education and

Culture founded the National Digital Library project 2008–17. The Finna open access search service (finna.fi) was created in the project (The National Library of Finland).

The Helsinki City Museum Picture Collection is cultural and historical. The museum has opened a collection of data and photographs via Finna since the year 2014. At the moment, Helsinki City Museum has published more than 30,000 photographs under a Creative Commons BY 4.0 license in Finna. A Creative Commons Attribution license CC BY 4.0 (Creative Commons 2018) allows use for any purpose, including commercial. The museum also offers access to photographs via its own search service *Helsinkiphotos* (*helsinkiphotos.fi*).

5. Publishing photographs – challenges

Before Helsinki City Museum published photographs online under a Creative Commons BY 4.0 license, there was thorough discussion of the pros and cons among curators. The advantages of open access were, for example, increased use of Picture Collection and the disadvantages were, for example, a loss of image fees. Also lots of rethinking and studying of complex legislation was done. Decision-making had a good base on the museum's vision, goals and focus points, such as 'open access to materials' and 'increasing the city residents' influencing opportunities'. Even so, some concerns about the idea of publishing post-mortem photographs were raised. Some might even be called fears.

After private photographs have been accessioned to museum from private collections become part of museum collection, they sift from private to public spaces, and from private research to public resources, as Edwards and Morton have described (Edwards and Morton 2015).

Post-mortem photographs could be seen as essentially private and sharing them online is definitely an issue of privacy. It is also a fact that by publishing post-mortem photographs online, the museum lost control over who is allowed to use images and how. There is a huge difference between collections in situ and collections online. Post-mortem photographs aren't always easy to find from collections, even with help from a curator. Most of the post-mortem photographs in the Picture Collection are listed as portraits by a person's name or family name. The situation is totally different with online published photographs. Due to metadata included with photographs, they

are easy to find and with a Creative Commons BY 4.0 license they are available to everyone.

6. Publishing post-mortem photographs – ethics

Open access to post-mortem photographs needed also careful thinking and a discussion of ethical issues. As a museum collection, Helsinki City Museum has to implement the museum ICOM Code of Ethics principle: “Museums have the duty to acquire, preserve and promote their collections as a contribution to safeguarding the natural, cultural and scientific heritage” (ICOM 2017, 9).

Post-mortem photographs had been mostly donated to the museum by private persons. Some of the donations are over 100 years old. Still some family members of the deceased in post-mortem photography can exist. What if families or relatives see the museum as violating their privacy with open access? As most of the post-mortem photographs published online were more than 60 years old, the museum took a so-called positive risk and published them. It was also decided to immediately take an online photograph off the web if someone it concerned so requested. The ICOM Code of Ethics, cap. 4.4, gave also support to possible conflicts (ICOM 2017, 25). It is not specifically for photographs but is still a good code to lean on:

Requests for removal from public display of human remains or material of sacred significance from the originating communities must be addressed expeditiously with respect and sensitivity. Requests for the return of such material should be addressed similarly. Museum policies should clearly define the process for responding to such requests.

It was also important for the museum to ensure valid metadata – especially with contextual information. Without giving open access to metadata, understanding the deeper historic context of post-mortem photographs might be seen as uncomfortable and morbid.

7. The legal background of publishing picture collections

The legal background of publishing photographs is based on the Finnish copyright and privacy laws. The implementation of the *General Data Protection*

Regulation 2016/679 (GDPR) also dispensed the regulation in publishing the metadata. A photograph of an identifiable person is considered to be personal data. GDPR affects museums and archives and other memory organizations who collect identifying information about people. The whole effect of GDPR on sensitive data, such as post-mortem photographs and portraits, is still unclear. In general, GDPR seems not to concern the deceased (GDPR, recital 27). Also Finland's proposed data protection act does not apply to the personal data of deceased persons.

Open access to photographs raises questions about museums' ambitions, breaches of individual rights and use permissions, along with the question of the proper way to present deceased people on the web or in mass media. The *Personal Data Act 523/1999* and *Copyright Act 404/1961* (amendments up to 608/2015) protect the rights of the person who was photographed or the person who has the copyright to the photograph. The copyright stands for 50 years. Many portraits have no protection as artwork and can be shared more freely after open access. However, permission to publish images is required.

Releasing photographs as open data passes the responsibility from the museum to the user. Publishing an image with abusive content can fulfill the definition of defamation or dissemination of information that violates privacy, although defamation cannot be applied if a considerable amount of time has elapsed since the death of the people in the photograph. In Finland there is also variation in how a museum releases photographs with personal data. Some museums publish portraits only if they are over 100 years old and some are publishing post-mortem photographs with only a little information; in that way the person isn't identifiable.

Helsinki City Museum decided to give open access to most metadata of post-mortem photographs including the person's name, year and sometimes the story behind the death. As mentioned previously, museum policy is to immediately take an online photograph off the web if someone concerned so request.

8. Conclusion

Online information increases all the time. If a museum wishes to influence the public's understanding of history, it can't hide difficult issues such as post-mortem photographs. Before publishing, it is beneficial to discuss thoroughly the pros and cons of the procedure.

By weighing the pros and cons, Helsinki City Museum chose the course of action. Open access to post-mortem photographs brought legitimate questions of legal and ethical issues and some fears among museum staff of Helsinki City Museum. None of the fears have been realized so far. Photographs have been used several times in newspaper articles in an appropriate manner. Journalists have co-operated with the museum's curators and have carefully written about the tradition and context of post-mortem photographs (Turunen 2016, Haapaluoma-Höglund 2017). Newspaper articles on the web have provoked lots of discussion among readers. For example, Haapaluoma-Höglund's article (2017) has nearly 50 comments. Some of the comments are a truly deep analysis of inner feelings inspired by post-mortem photographs. Open post-mortem photographs have also inspired discussion in several Facebook groups concentrated on old photographs (e.g. *Tempus Fugit – vanhoja valokuvia*) and open photographs have been used in Pinterest and several websites (e.g. *Palescarlett* 2017; Pinterest). All feedback given to Helsinki City Museum has been positive. We think that the publishing has increased the public discussion of post-mortem photographs as a tradition.

The aim of Helsinki City Museum was not to provoke or make post-mortem photographs more taboo. The aim was to make a hidden part of collection available to everyone. Post-mortem photography is one tradition of photography, which has offered the possibility to remember and cherish the lost ones. It also gives an interesting view to one's life story and to the ways in which death has been a part of the society in the past.

We think that open access to post-mortem photographs might evoke more comfortable thinking about death. But without understanding the deeper historic context of these photographs, it likely will not happen. Open access to post-mortem photographs has been successful process in Helsinki City Museum. We want to encourage picture collections to publish all kinds of photographs – even those sensitive and difficult ones as post-mortem photographs.

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