S2 E6

"Unscripted," Unprotected

By Lilian Bernhardt

Behind the scenes of reality television lies an inconvenient truth for avid fans of the genre: an industry that has long grappled with labor issues.

Lowell Peterson, Executive Director of the Writers Guild of America East, has recurrently described the writers and producers of reality television as the "sweatshop workers" of the television writing profession.[1]

In 2014, testifying before the New York City Council's Civil Service & Labor Committee, for an inquiry on working conditions in the industry, he said[2]:

"Today you will hear the tale of two television industries ... Most of our members work in the part of the industry that provides good benefits, good pay, good middle-class careers. Today you are investigating the other part of the industry—nonfiction or "reality" TV—which is almost entirely non-union. People in that part of the industry work brutally long hours without overtime pay, without health or pension benefits, without paid time off, without the basic protections they deserve."

Close to a decade later, these issues persist. Earlier this year, the Writers Guild of America led a historic strike to secure residual payments, improved agreements, and protections against Artificial Intelligence for writers and producers in scripted film and television. However, those working in non-fiction were not included in the negotiations or agreements.[3]

The development of reality is closely tied to the history of the Writers Guild, with the WGA East and West Strike of 1988 and the 2007-2008 strike significantly impacting the genre's rise and popularity. The 1988 strike is linked to the emergence of reality as a major cultural phenomenon in the U.S., and the 2007-2008 strike contributed to the genre's surge in popularity in the early 2010s. As scripted programming was canceled and postponed, networks sought alternative content to fill their schedules, and reality was an attractive option due to its low production and labor costs and the wide availability of on-screen talent.[4] Given this historical impact, many speculate that the 2023 strike could increase production and programming.

The WGA originally sought to include reality programming in its 2007-2008 strike proposals, with hopes of having the genre

considered as part of their jurisdiction.[4] According to Dr. Tanner Mirrlees, a political economist of the media and entertainment industries, the classification of reality TV as "non-scripted programming" has played a significant role in allowing TV studios to "exploit workers" and avoid collective agreements, enabling them to employ non-union crews and pay lower wages.[5] The WGA argued that the term "unscripted" was dismissive of the skillful editing and the ability to create compelling narrative structure used within the genre, but reality TV was ultimately removed from the bargaining table, leaving it outside the scope of union agreements.

In 2020, the Non-Fiction Union, a worker-led movement of more than 1,500 non-fiction and documentary television professionals, launched the #RaiseOurStandards Campaign. In a survey of 128 workers, 82 percent reported being uninsured, and 85 percent reported working six-to-seven-day work weeks and 12-to-16 hour days without overtime pay.[6]

The results reflect the life experiences of Jess Beck, a writer and producer with 24 years of industry experience working for major networks such as Discovery, HBO, MTV, and more. She has worked across various lifestyle, docu-soap and long-form documentary projects, and has been involved in reality series such as *Real Housewives of Atlanta*, *Engaged and Underage* and *The Ick Factor.*

"Oftentimes, when I sign a contract, I'll look at it, and it doesn't say that a week is five days. So, then I realized throughout my career that people expect me to work seven days for the same amount that they expect me to work five days," she said to me over Zoom.

"We don't get paid overtime. We don't get paid as well as folks on the other side. We don't get residuals; we don't have health insurance.

"I've been in unsafe conditions because they basically lower and lower budgets, but we're expected to deliver the same thing. We have to film entire shows in 4-6 days and experience unsafe conditions because of having to work so many hours then, say, drive on little sleep. Because we're freelance, we're kind of only as good as our last show. So, there's this feeling that you have to make it work no matter what, or no one will hire you again. It's difficult to just take a stand as one person; that's why you need a union. Which isn't to say I haven't, but not many people do because they're afraid to lose their job."

For more than 14 years now, Jess has been part of efforts to unionize the industry, an undertaking that she describes as an "uphill battle."

Jess said that she has faced strong resistance from companies while organizing, including being blacklisted from three different companies and losing work as a result.

"While companies are not supposed to outwardly oppose unions, they do. And while they're not supposed to punish people for unionizing, they do," she said.

"When you're a freelancer, it's hard to prove that that's the reason why you were fired, but it very clearly was in a number of cases for me."

Jess Beck believes that for the movement to gain leverage or for things to really change, workers in non-fiction will need to strike. But now, she says there is not a "unified or strong enough group to do so," particularly given the freelancing atmosphere.

"We'll be trying to unionize one shop, but then by the time the struggle gets real, you know, those are the people working there have gone somewhere else."

Beck hopes that the current WGA strike can lead to positive outcomes for both subsets of the industry and spark motivation.

"Both sides of fiction and non-fiction need to get together and put our demands up there; otherwise, nonfiction is going to continue to be like the stepchild that isn't treated as well," she said.

These issues extend beyond behind-the-scenes to the very faces populating our favorite reality series. According to Kevin Greene, entertainment lawyer and professor at the Thomas Jefferson School of Law, "Reality TV contracts are known for being some of the most onerous in the entertainment industry, and perhaps any industry." He writes that as part of their contracts, participants are often required to keep details of the show and their experiences confidential, are subject to "arbitration clauses" that limit their right to sue in court for damages, and receive little in comparison to the "massive revenues made by producers and networks."[7]

Reality TV stars are often not acknowledged as employees by the shows they participate in or the production companies they are filmed by. Their contracts frequently include liability waivers, giving producers substantial control over the way they are portrayed and

their stories used.[5] In addition, the public pressure and scrutiny they face can pose a psychosocial risk and, unless effectively managed, lead to adverse effects on their mental health.

Recently, former contestants of the popular love experiment *Love Is Blind* have come forward with allegations of mistreatment during the production process. In the series, singles seek to form romantic connections based solely on emotional and intellectual compatibility. Dating in "pods," rooms in which they can hear but not see one another, they get to know the other contestants, eventually deciding whether or not they want to propose "sight unseen." In interviews with *Insider*, multiple cast members claimed that they were deprived of food, water, sleep, and adequate access to mental health support during production, suffering "physical and psychological impacts" as a result.[8]

Jeremy Hartwell, a cast member from season two, was one of them. In an interview over Zoom, he told me that it became apparent from the beginning of his time on the show that something "sinister" was occurring. He alleges that cast members were isolated in hotel rooms for 24 hours upon arrival and asked to hand over all forms of identification, communication, and currency. He claims that the cast was told that if they were found outside of their rooms, they faced the risk of being kicked off the show and paying a penalty fine, and he speculates that all of this was used as a "tactic of manipulation" to make cast members more willing to comply with production and to become desperate for social connections.

The production company Kinetic denies the claims, saying in a statement to *Variety* that there is "absolutely no merit to Mr Hartwell's allegations."[9]

Nonetheless, Hartwell is pursuing legal action and has filed a class-action lawsuit against the production company Kinetic (which produces *Love Is Blind*, *The Ultimatum*, *Married At First Sight*, *Seven Year Switch*, *Little Women*, and more) and Netflix. Hartwell's lawsuit alleges that the production company was in violation of Californian Labor Laws by classifying cast members as independent contractors. It states that due to producers dictating the nature, means, and timing of cast members' work, they should have been classified as employees. According to the lawsuit, cast members were required to work seven days a week, for up to 20 hours a day. Cast members

were paid a stipend of $1,000 per week, the equivalent of $7.14 an hour, less than half the minimum wage in Los Angeles.[9]

"I would imagine the reason why they classified us as independent contractors is because they don't have the same rights as full-time employees," he said.

"There's no requirement for meal breaks, there are no requirements for the amount of time you're working during a day, there's no minimum wage, and so they can get away with basically anything they want if they're classifying you as contract labor."

Hartwell claims that after he first filed his lawsuit, he was contacted by "40 to 50" different cast members from varying reality shows, with many thanking him for bringing public attention to the topic and sharing personal anecdotes of abuse and exploitation within the industry.

"Almost no one's willing to speak up publicly because they're terrified. They're scared of being sued. They're scared of a bad edit, whatever it is, and rightfully so. There's a reason why they're scared. And there's a reason why they've been scared for a long time," he said.

Bad edits, or the manipulation or misrepresentation of footage, can create misleading portrayals of cast members or events unfolding on the screen. They can have detrimental impacts on the lives of cast members—impacting their personal reputation and their ability to find work, leading to serious mental health implications and, in some cases, tragic outcomes. Bad edits increase the likelihood of cast members receiving intense public criticism and backlash, including death threats and online abuse from fans.

In an aim to provide legal and mental support to reality cast members and to foster a sense of community, Jeremy Hartwell has established the non-profit organization *The UCAN Foundation*.

"For decades, there has been a cycle of abuse, with sporadic reports emerging here and there. But they never gained momentum because people have been kept separate for so long. A major aspect of our organization is to serve as a hub, bringing cast members together across different seasons and shows, while providing much-needed support," he said.

Through a network of a dozen lawyers, Hartwell hopes to help cast members better understand their legal rights and ensure they

have the resources to make informed decisions about their participation. He is also hoping to improve the mental health support that cast members receive, stating that he could have benefited from preparation for the onslaught of hateful messages he received from viewers after the series aired. He said that while he received a slim volume of messages compared to other cast members due to brief screen time on the show, it still had a significant impact on his mental health, exacerbating his anxieties to levels he says he could "not cope with."

"I think having independent psychologists on set who have the authority to step in on behalf of the well-being of cast members would go a long way towards ameliorating some of these issues that we're seeing. And then, obviously, post-production, when, you know, coming down from the whole experience. And then after it airs, providing as many free sessions as necessary with a therapist to work through things or providing a social media manager so that as a cast member, you don't have to wade through 1000s of DMs, which contain death threats," he said.

To explore the role of viewers and what role they can play, if any, in mitigating the impact of reality television on its creators, I sought insights from both Jeremy and Jess.

Jess Beck believes that viewers should be aware of the labor conditions and the unionizing struggles and keep an eye out for a call to viewers. She believes that leveraging viewership could be a "great way" and "potentially one of the only ways" to affect the bottom line.

"I think if the time comes when folks say, listen, we're waging a campaign, the crew of this show is striking or walking out, to be supportive in whatever ways we asked for when that comes. And to be vocal," she said.

Jeremy Hartwell believes that the first step is for viewers to challenge their own predispositions and expectations.

"The line we always hear is, well, you signed up for it," he said. "Three years ago, I probably would have had a similar mindset. But I would like people to just challenge themselves, challenge their own beliefs. Realize that for every one reality TV person they see on Instagram with 500,000 followers, there are 100 they've never even heard of who have gone through the same abuse and exploitation and are in a worse place mentally, emotionally, and financially, but

you never hear about them because they're just thrown away like trash at the end."

"Cast members are people too," he said. "And the stories are real. And the stories are horrific, in every possible way. It's not even labor. It's just basic human rights being violated on a consistent, continual, malicious basis. The first step is viewers realizing that this is happening, that when they're watching the shows, there's a price that's being paid, and they need to make a decision about what that means."

Whether they realize it or not, viewers hold significant power within the industry. Every stream is an active participation. Viewers have the ability to create change in the lives of those whose intimate relationships and private thoughts are shared on the screen and for those behind the cameras too. Being vocal doesn't necessitate giving up any reality television addictions and could be as simple as retaining a critical eye, speaking out when noticing deceptive editing practices, humanizing those we watch, or fostering discussion if we suspect that ethical boundaries are being crossed. An example is the reunion of season one of *The Ultimatum: Queer Love*. Viewers expressed concern and outrage over social media about the production company's decision to have an ex-couple in the same room—a couple that had separated post-filming due to domestic violence for which one of the cast members was arrested.[10] These actions send a clear message that responsible and ethical production, and the well-being of those involved, are more important to viewers than a shocking night of television.

WGA strikes have previously changed the course of reality television, and while time will only tell how the current strike impacts the industry, it offers an opportunity for reflection, action, and change—for writers, producers, cast members, networks, and viewers alike. While the WGA has managed to successfully organize handfuls of non-fiction workplaces over the years, their fight is far from over. And for viewers, it's just beginning.

NOTES

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