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Non-Disclosure Agreements: The Real Impact of Reality Television

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NON-DISCLOSURE AGREEMENTS:  
THE REAL IMPACT OF REALITY TELEVISION

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### Abstract

Reality Television is often regarded as a mirror to society; a feedback loop of media sustained *by* and produced *for* its audience. In just two decades, it has transformed the television industry by establishing not only a unique production culture but by also participating in culture production. Through its purported depiction of “reality,” it has been able to serve as a rich site for studying social, political, economic, and cultural trends. Further, where secrecy is a vibrant part of this entertainment sector, the use of Non-Disclosure Agreements (NDA) has flourished. While a plethora of works study the television industry, the rising popularity of the genre, and the crucial role NDAs played leading up to the #MeToo movement, there is a lack of academic discourse surrounding a synthesis of Reality Television and NDAs in the present era. My thesis seeks to remedy this gap by analyzing the industry’s harmful labor practices paired with its use of NDAs in an increasingly digital age by conducting a case study of a recent controversy: Season 25 of *The Bachelor*. I conducted the study by examining critical media scholarship, television footage, interviews, trade publications, social media posts, as well as NDAs and legal sources. My thesis concludes that the use of the NDA has codified and perpetuated an ongoing and legalized system of racism not only within the industry but for the consumption and normalization of American audiences.

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## Introduction

Amplified by the Covid-19 Pandemic, entertainment media is both increasingly consumed and accessible each day. Network television has evolved onto digital platforms and gained not only a wider audience but a viewership that is not temporally restricted. Among the slew of entertainment options, Reality Television has become an especially popular choice. From its origins in the mid-1900s to its popularization in the 2000s, the American public has relished the genre's various facets—ranging from its seemingly unscripted nature, dramatic narratives, or the parasocial relationships its participants convert onto social media platforms. In just two decades, Reality Television has also transformed the entertainment industry as a whole by establishing a unique production culture. However, behind the scenes, harmful labor practices have been able to thrive. That is because working in tandem with this industry is the Non-Disclosure Agreement (NDA). Secrecy being a vibrant part of this entertainment sector, the use of NDAs has flourished. This legal document, which serves as a confidentiality agreement, is used prolifically throughout all steps of the industry's production. Specifically, participants are unable to speak out about the behind-the-scenes of their production experience. The NDA has worked actively in favor of networks and producers in codifying the silence of harmful labor practices. However, all of this has mostly gone unnoticed.

Reality Television as a genre has often been overlooked as a guilty pleasure. Reporting on the shows, participants, production, and any aftermath is done by tabloid magazines whereas trade publications write exhaustively on “higher culture” topics. Thus, the Reality Television industry is not merely a guilty pleasure but one that requires deep, critical analysis. Reality Television is not “...a fad or a discreet development in media culture...” but rather “the grounds for tracing and examining the changing economic, social, cultural, and political conditions in

which we live.”<sup>1</sup> The genre is a mirror to society; a feedback loop of media sustained *by* and produced *for* its audience. It serves as a rich site for studying social, political, economic, and cultural trends through its purported depiction of “reality.” Hence, studying the industry now can aid in the present moment’s increasing inclination to re-evaluate sociocultural structures and systems.

When approaching this topic, several key questions come to mind. How do NDAs limit our perception of reality within the Reality Television industry? How can this ubiquitous silence perpetuate real, adverse effects on society like racism, sexism, heteronormativity, etc.? All of these inquiries served to inform the purpose and objective of my thesis. While a plethora of works study the television industry, the rising popularity of the genre, and the crucial role NDAs played leading up to the #MeToo movement, there is a lack of academic discourse surrounding a synthesis of Reality Television and NDAs in the present era. There are pockets of time with relevant changes in labor practice, technology, and digital media pervasivity that are not yet discussed. My thesis seeks to remedy this gap by analyzing the industry’s harmful labor practices and narratives paired with its use of NDAs in an increasingly digital age by conducting a case study of a recent controversy: Season 25 of *The Bachelor*.

In my study, I will provide an introduction to the evolution of Reality Television’s definition and prevalence. After establishing this broader context, I will synthesize numerous academic sources paired with critical theory to analyze the harmful labor practices that have manifested over the years. I will argue that through scripting, editing, producer meddling, creating the illusion of democracy, commodifying surveillance, and contributing greatly to harmful dynamics surrounding identity, Reality Television has been an exploitative contributor to

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<sup>1</sup>Laurie Ouellette, “Introduction,” in *A Companion to Reality Television*, ed. Laurie Ouellette (Wiley Blackwell, 2014), 3.

the culture industry. I will then delve into NDAs, their development, and how they operate. I will go on to discover a discrepancy between what is accessible and inaccessible surrounding NDAs as well as show numerous instances the NDA has been used in the Reality Television industry. This work will set me up to explore the case study of *The Bachelor* Season 25. I will analyze the rise and fall of a franchise, a fan-led diversity campaign, and closely analyze a cataclysmic interview for the franchise. I will conduct this study by examining critical media scholarship, television footage, interviews, trade publications, social media posts, as well as NDAs and legal sources. My thesis concludes that the use of the NDA has codified and perpetuated an ongoing and legalized system of racism not only within the industry but for the consumption and normalization of American audiences.



## Chapter One

### What is Reality Television?

#### A Definition

In order to proceed into an analysis of Reality Television and its practices, it is necessary to provide an operational definition of the term. Reality Television is an ever-evolving television genre that has earned its pervasiveness in the cultural zeitgeist within the last two decades. No definition can fully encompass Reality Television and its perpetually changing structure and influence. Critical Media scholar Laurie Ouellette provides a definition of the genre to establish a baseline for those who study it. Ouellette states that it is “...an ambiguous term that encompasses the swatch of ostensibly unscripted shows featuring ordinary people as contestants, participants, and subjects described above.”<sup>2</sup> Scholars have discussed the production of Reality Television shows and how they differentiate this form of television from others. The genre can be characterized by hybridization of the documentary and fictional television show styles; a generic amalgamation of other televisual forms. In essence, there exist shared conventions and a collection of unique subgenres that make up Reality Television.

Rachel E. Dubrofsky – a leading figure in the intersectional scholarship of specifically *The Bachelor* franchise within the Reality Television industry – also defines Reality Television with a key explanation. Dubrofsky argues that “reality-based television” is a better phrase for the genre, as it more accurately refers to the broad spectrum of unscripted shows that follow a set structure along with specified tasks and events in each episode.<sup>3</sup> This definition asserts that the shows are *based* on reality while being careful not to assert that they *are* real. The term includes implications surrounding the constructedness of not only the shows but also the representation in

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<sup>2</sup>Ouellette, 4.

<sup>3</sup>Rachel E. Dubrofsky, “The Bachelor: Whiteness in the Harem.” *Critical Studies in Media Communication* 23, no. 1 (2006): 41.

reality-based television.<sup>4</sup> Dubrofsky's definition and subsequent analyses are based on the assumption that reality-based television constructs fiction via real people that comprise its participants. Dubrofsky includes a key component of the term: "The narrative is constructed by TV workers, sometimes using a tiny percentage of the footage shot."<sup>5</sup> The final product viewers receive when watching reality-based shows is a narrative constructed by production. Shows utilize *real* footage of *real* people to tell a *fictional* story. This thesis will bear in mind the definitions of Ouellette and Dubrofsky to make sense of the genre and examine its facets.

Finally, the unscriptedness of Reality Television is a crucial facet of its definition to bear in mind. This fact carries weight in the legal definition of reality television participants. In a comparative study, Zelda Gerard inquires about the legal status of Reality Television participants in the United States and France. Gerard asks the question of whether or not participants are considered actors or employees. The text argues that this distinction is important to make to determine the differing set of rules which govern each of these roles. Gerard explores the confrontation of facts like the rehearsal process, detailed behavior regulation, and predetermined artificial scenarios which in turn dictate key legal notions like employment, physical harm, emotional distress, negligence, false imprisonment, and privacy.<sup>6</sup> Gerard ultimately determines that "...from a cultural point of view, it can be inferred from the French decisions that the judges are reluctant to consider reality TV participants as actors, although they want to protect the conditions under which the participants perform their services in terms of wages, termination rights, etc. In the United States, the courts still have yet to declare that reality TV participants are employees and agree they remain independent contractors."<sup>7</sup> The unclear definition of the

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<sup>4</sup>Ouellette, 4-5.

<sup>5</sup>Ouellette, 5.

<sup>6</sup>Zelda Gerard. "The Legal Status of Reality TV Show Participants in the United States and in France: a Comparative Study." *The Entertainment and Sports Lawyer* 31, no. 1 (2014).

<sup>7</sup>Gerard, 5.

unscripted nature of Reality Television contributes directly to the legal status of its participants as well as their rights.

### **A History**

Tracing back the history and origins of Reality Television sheds light on earlier, similarly influential forms of the medium as well as the ethos that inspired the genre. Although “Reality Television” as a term is a product of just the last few decades, unscripted entertainment depicting ordinary people dates back even further. Some people argue the incipient stages of Reality Television to be the participatory television or radio shows of the 40s. *Queen for a Day*, which premiered in 1945, is often cited as an example of the earliest example of reality-based television. A show like *Queen for a Day* was not just portraying people in unscripted situations, but compelled participants to be vulnerable with intimate details of their personal lives not only for entertainment but for them to win the prize. Further down in the decades, the 70s debuted shows like *An American Family*, which was a variant of the documentary style that included intervention during recording as well as subsequent shaping through editing. The series was made between 1971-1973 and followed a nuclear family undergoing much change like divorce and the coming of age of their children. The show is considered a trailblazer within the timeline of the genre as it demonstrates a “detail of ordinary speech and interaction traced by witnessing the conversations in the family home at a level of realistic observation” unlike any show prior.<sup>8</sup> Thus unfolded a progressively evolving genre of television throughout the latter half of the 20th century.

I would characterize Reality Television as having distinct phases, and will mostly be assessing its most recent two phases going forward. First, there was Phase One, spanning from the 1940s to the 80s, pioneering the game show and confessional. Then came Phase Two, the

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<sup>8</sup>Jonathan Bignell. “Realism and Reality Format.” In *A Companion to Reality Television*, 103.

commercialization of the genre from the 1980s to the 2010s and its assimilation to the forefront of network programming, with shows like *Cops*. Finally, right now Phase Three is playing out, an era beginning in the 2010s where a convergence of social media and the genre occurred leading to more visibility and discourse of its production.

By ascertaining these periods, scholars can address broader technological and cultural circumstances in which the genre has grown and thrived. The maturation and prevalence of Reality Television is a phenomenon bound historically to shifting dynamics surrounding production and consumption. In acknowledging the genre's increase in the visibility of ordinary people – for better or worse – scholars can analyze and theorize “...media culture's relationship to the public, celebrity, difference (gender, race, class, sexuality), and personhood.”<sup>9</sup> Media Studies scholar Mark Andrejevic also comments on the importance of studying the genre. He states, “In the face of this persistent tendency to imagine that reality television affects the society that produces it, the ongoing challenge is to explore, rather, how it picks out aspects of that society and represents these to us.”<sup>10</sup> Harkening back to Dubrofsky's emphasis on constructedness, Andrejevic begs the consideration of what reality programming consciously or subconsciously engineers as narratives throughout history. Thus, the genre remains a fruitful site for continuous societal reflection due to its instructive nature on what is real in the culture that produces it. This is notwithstanding its current produced, corporatized, and scripted nature. The evolved, commercialized iteration of Reality Television sustains a didacticism by presenting not what is real for the average person, but rather a particular view of life held by the producers. This informs scholars of what society aims to normalize, encourage, or is not aware of is problematic.

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<sup>9</sup>Ouellette, 4.

<sup>10</sup>Mark Andrejevic. “When Everyone Has Their Own Reality Show.” In *A Companion to Reality Television*, 41.

## Chapter Two

### Reality Television's Production Culture & Culture Production

#### (Un)Scripted Television, The Producer, & The Edit

The script, the producers, and the edit are key players and active forces in distributing and shaping the final product of cultural goods. Reality Television scripts are fabricated and executed by the producers. The producer— one of the most vital roles in the production of Reality Television— develops the plots that inspire viewership and ratings. The producer sometimes achieves this through relationships with the participants<sup>11</sup> to elicit emotionally charged performances. These performances are, in turn, edited into cohesive and captivating narratives. Other times, the producers do so through “...isolated confinement [which] also manufactures malleable, easy-to-control participants.”<sup>12</sup> Producer-manufactured isolation, loosely comparable to solitary confinement techniques used by the justice system’s interrogations, fosters the psychological malleability of the participant to be an easy “pawn” in the plot. Looming above this all within the mix is the ultimate goal of the network. It is not in the participants’ interests, but rather to collect proprietary data and make money off of advertisements.

The editor’s job is to effectively compress hours-long stretches of footage into an episode. Sometimes, in the editing process, the footage is strung together to create a story arc. Other times, words or phrases are strung together into manufactured sentences. Dubbed “frankenbiting” by individuals in the industry, “editors routinely clip together bits of dialog to have people saying something on air they never said.”<sup>13</sup> Through contextual changing/omission, deletion, cherry-picking, or temporal disordering, their work can modify scene meaning,

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<sup>11</sup>I employ the word “participants” intentionally as an umbrella term denoting all the various roles the subject of a Reality Television show can occupy, including but not limited to contestants, competitors, dates, players, etc.

<sup>12</sup>Ragan Fox. *Inside Reality TV: Producing Race, Gender, and Sexuality on Big Brother*. 1st ed. Milton: Routledge, 2019, 37.

<sup>13</sup>Richard M. Huff. *Reality Television* / Richard M. Huff. Westport, Conn: Praeger Publishers, 2006, 172.

misrepresent participants' words or attitudes, and alter "reality." Sometimes, participants even say the footage is unrecognizable to the events they experienced. However, statements like these from participants would most likely have to be publicly shared all too late due to NDAs. This can be either beneficial, neutral, or harmful. Ragan Fox, a Performance Studies scholar and Reality Television participant himself, calls the producer constructed and editor abetted representational voids "produced absence," characterizing situations where there is a failure to address homophobia, sexism, and racism.<sup>14</sup> This manufactured absence emphasizes an identity-harming silence and normalizes these behaviors in greater society. An increasing lack of active cognizance of these facts continues to lead to the subconscious acceptance and subsequent encoding of these scripts and edited narratives into our culture. The edit can create real harm in the lives of people who may not be able to speak on the matters directly regarding them.

### **The Illusion of Democratism**

There is much conjecture as to the purported democratism in Reality Television. Some believe it embodies a democratic embrace of ordinary people's lives accompanied by a populist push for participation, while others believe that this interactivity is false and yet another mode of exploitation. The proclamation that Reality Television is a democratic form of media is one with many implications. It carries a heavy burden to fulfill, by making claims of being a form of media made *for* the people *by* the people. For one, audience and participant interactivity are a keystone of numerous Reality Television shows' formats. Shows have interactive moments crucial to the events and outcomes for the participants. Yet, how much of this is true? What does it imply if it is not? I contend that Reality Television is not democratic, but rather benefits from the illusion of democratism.

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<sup>14</sup>Fox, 8.

Reality Television's democratization has nothing to do with politics, but rather a purportedly populist promise for participation. Andrejevic connects this back to the genre's historical origins stating, "...the promotion of reality television is of a piece with the promise of the interactive 'revolution' more broadly: that we may finally be reaching the point at which dramatic technological advances make it possible to recapture a romanticized era of community, participation, fulfilling work, and customized goods that characterized the image of traditional society figured in modernity's backward (and partial) gaze."<sup>15</sup> Rather than a Hollywood scriptwriter seemingly disconnected from reality, Reality Television promises to its audience that their depiction of the real can be bolstered by the interactivity of an average person like them.

Many Reality Television shows ask their audiences to be active rather than passive viewers of their programming, often openly inviting viewers at home to express their judgment of the participants. Ordinary people otherwise unassociated with the entertainment industry are allowed access to a sphere they are traditionally excluded from as participants. To maintain this illusion of "realness," the public is also invited to participate by dictating the course of said average individual's experiences. This alluring prospect is ultimately a part of the experience the programming aims to deliver. Making it so crucial is yet another form of deriving a creative product from cheap labor. Mark Andrejevic describes the continuation of this practice as well as the audience's continuation to believe in the results, saying, "...producers can deploy the offer of participation as a means of enticing viewers to share in the production of a relatively inexpensive and profitable entertainment product."<sup>16</sup> The industry promises access to the real by allowing illusory access to the production. Not only are participants exploited by this phony democratization, but so are consumers with this phony promise of participation. While actual

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<sup>15</sup>Mark Andrejevic. *Reality TV: the Work of Being Watched / Mark Andrejevic*. Lanham, Md: Rowman & Littlefield Publishers, 2004, 6.

<sup>16</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 44.

numbers may not be directly tampered with, the producers have tactics they utilize to sway public opinion of both whom to vote for and how to present the numbers. For one, often a live count of real numbers is never displayed to viewers. Another method is that the producers “...construct a narrative of consumer power in which the public vote is seen to make a difference to the larger dramatic narrative of the competition.”<sup>17</sup> By inviting the average audience member to have a crucial say in the outcomes of a show, the genre acts as the people’s television. At face value, this participation incorporates the audience into the shows’ scripts as more than simply a consumer. However, Social and Cultural Analyst Andrew Ross explains, “While many viewers may feel empowered by being given a vote, it is clear this is not the kind of participation that will alter the relations of production, let alone the ownership of cultural expression in these industrial formats.”<sup>18</sup> On the surface, the audience appears to be empowered to have a say in the show and its narrative arc. However, over the years it has become clear that production is not heavily influenced by these interactions, nor do these roles possess any tangible power over the result. Thus, the industry cannot be seen as truly democratic; the majority’s opinion does not rule over the plot. It goes beyond sharing false results but is rather another form of the industry deceiving its audiences.

Graeme Turner also situates himself in the discussion of Reality Television’s alleged democratization through the exploration of a better terminology surrounding the illusory phenomenon called “the demotic turn.” Turner coined his terminology concerning the industry “...to describe a broad trend that has seen ordinary people become increasingly visible (and audible) as they are turned into media content via many platforms and formats...”<sup>19</sup> He

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<sup>17</sup>Annette Hill. “Reality TV Experiences: Audiences, Fact, and Fiction.” In *A Companion to Reality Television*, 120, 2014.

<sup>18</sup>Andrew Ross. “Reality Television and the Political Economy of Amateurism.” In *A Companion to Reality Television*, 37.

<sup>19</sup>Graeme Turner. “Reality Television and the Demotic Turn.” In *A Companion to Reality Television*, 309.



differentiates between demotic and democratic to establish a key distinction between participatory media and political significance.<sup>20</sup> Although ordinary people and concerns are given the spotlight, the genre is in no way making a valiant effort towards accessibility. The content is still produced. Further, Turner helps distinguish between interactive and participatory. The average individual is invited into the scripts of Reality programming through their interactivity. This interactivity includes text-ins, tweets, votes through applications, etc. Sometimes these votes influence a date or activity participants will have to embark on, and other times it determines the winner of a show. Either way, this interactivity taps into the audience's algorithm and collects data on what receives ratings. However, there is no true political application to democracy. No longer are the trailblazers of alternative television contributing to the Reality Television industry. Rather, through their interactivity, networks, and producers can collect what the audience will tune in again for. From the living room watch party to Twitter live-tweeting to entire podcasts dedicated to minute-by-minute analysis, there has existed an unspoken invitation to public opinion on the lives and outcomes of participants. Annette Hill describes this evolution: "By trash-talking the people in reality television, audiences have 'something of interest to say in their critical reflections on the genre and its social dimensions.'"<sup>21</sup> Inciting reflection of the show inspires both these critical audiences to return to watch the programming just as much as fans. Thus, while this mediated space of participation may not have any real interactive power, it emboldens a majority of viewers to publicly express their opinions via conversation and social media too.

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<sup>20</sup>Turner, 310.

<sup>21</sup>Hill, 128.

## Surveillance

The Reality Television industry is an Orwellian field day. Participants of the genre are beholden to the commodification of surveillance, or “the work of being watched” as coined by Mark Andrejevic. The very essence of Reality programming relies on an intensive and perpetual reel of footage capturing the lives of its “ordinary people.” The private and the personal are fruitful sites to mine. The medium is transparent about this, and participants are often aware when signing away their privacy rights and NDAs. Even when cameras are not visibly there, microphones are on at all times capturing audio. The genre pledges “...to collapse the distance that separates those on either side of the screen by cultivating the fantasy.” Surveillance, and the realistic footage it produces, helps in the process of spreading the “this could be you” message; that just a quick form away an audience member can become a participant.<sup>22</sup> Some participants even see this surveillance as a positive, regarding the camera's recording of their confessionals and daily lives as facilitating their successful self-presentation– which is seen by them to be a crucial part of the experience’s appeal.<sup>23</sup> There is a sense of informed consent, along with a subsequent overlooking of such an invasive practice, as a positive and successful relationship to the surveillance which leads them to fame. The participant believes, and the viewer perceives, legitimate surveillance as fundamental in establishing authenticity. After all, attention capital is public image capital. It informs a sense of genuineness and confirms the real. However, this omnipresent and commodified scrutiny has numerous negative implications for participants.

Surveillance is a tool wielded by the producers to exert complete control over their participants. Fox, a participant of the show *Big Brother* himself, describes how the “...fear of constant scrutiny helps production exercise disciplinary control...”<sup>24</sup> The producers groom

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<sup>22</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 9.

<sup>23</sup>Turner, 314.

<sup>24</sup>Fox, 36.

houseguests from the very beginning of the casting process with the sense that they are being watched at all times, even when there are no cameras. This paranoia of the omniscient is instilled early on to create malleability in participants. Yet, participants started to gain a cognizance “...of the high profits that networks and production companies have made on the backs of their private moments...”<sup>25</sup> In a Reality show with an entirely different type of narrative than that of *Big Brother*, *The Bachelor* establishes surveillance to be an integral facet of the “...therapeutic transformative experience of the women on the shows...”<sup>26</sup> *The Bachelorette* leads – who conventionally appear in at least one season of the show before assuming that role – have a bank of recorded evidence of their past experiences and mistakes. Their ability to overcome their misgivings is subsequently recorded on their seasons, verifying the therapeutic transformation they undergo through visual evidence. Their “journey” is submission to “the process,” as the participant also proves their commitment to the aforementioned therapeutic transformation through repeated consent to the emotional surveillance process.<sup>27</sup> The producers convince both the participant and the audience that the conventions of growth and resilience can only be garnered by this compliance with surveillance and benefits, in turn, by gathering visual material for their show. Participants are also put into a situation where they must bear very personal information about themselves, being vulnerable to traumas surrounding anxiety, grief, and sexuality. There is almost a sense of voyeurism facilitated by the omnipresent footage of real and intimate moments in participants' lives downplayed by the normalization that surveillance is necessary to record the show. Shows like *Love Island* show scenes where the camera is even recording in the dark as participants are sharing intimate moments in their beds. Other times, a participant will have an “offscreen” conversation with a fellow participant or a producer which

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<sup>25</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 11.

<sup>26</sup>Dubrofsky, Rachel E. “The Bachelorette’s Postfeminist Therapy.” In *A Companion to Reality Television*, 198.

<sup>27</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 198.

will be included in the final edit. With a format following “...the conventions of ‘objective’ documentary to the extent that the action was presented as unfolding before the neutral gaze of the camera audience, viewers are offered the pleasure of watching the producers’ machinations at the expense of the participants.”<sup>28</sup> In some shows, the participant can be seen removing their microphones or running away pushing past the crew. Nevertheless, the camera follows and the audience relishes the ability to be in on the drama. Once the footage is collected, it can automatically be used.

In the increasingly digital age, desensitization to surveillance has been only helped by Reality Television’s normalization of it. It appears that the genre’s push for self-disclosure has encouraged that of social media culture. Increasingly, there has been a willing and enthusiastic submission for surveillance. Andrejevic explains, “...an economy based on ever more sophisticated techniques for monitoring consumer behavior broadcasts the message that ‘making oneself seen’ is a form of individuation and self-authentication.”<sup>29</sup> By clicking “I Agree” for lengthy “Terms of Services” without reading them, society has normalized its surveillance, allowing the technological producers access to their preferences and habits for customized media consumption. In a world of productivity, efficiency, validation, and recreation all being attained through technological devices, there is a structural need to agree to terms and conditions to participate. Essentially, “...subjectification entails active submission to surveillance, which means that we don’t just endure the monitoring gaze, we embrace the drive to make ourselves seen.”<sup>30</sup> Individuals benefit from the algorithm fashioned by their digital footprint, not only for a personalized user experience but also for oneself to be presented to the right others. Thus, there is an evident backsliding of personal privacy, and the media one consumes and puts out can be its

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<sup>28</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 186.

<sup>29</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 189.

<sup>30</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 189.

very reason. This phenomenon can be a contributing factor to the pervasiveness of the Non-Disclosure Agreement. Society has actively become numb to signing away their rights.

## **Identity**

Identity is a topic central to the scholarship of Reality Television but also to the narratives of the shows. Identity is how one situates themselves and is situated by others in relation to society with regards to various facets including but not limited to race, ethnicity, nationality, religion, culture, social class, gender, sexuality, etc. It is the topic that can be most visible to the average viewer and experiences the most discourse within audience conversation. That is because, in the course of Reality Television's history, identity and its representation in "reality" are highly influential to real society. At the micro-level, some participants are indefinitely beholden to the identities that portrayed them. The following topics I explore are only grazing the surface of an issue far greater in scope. The subtopics are in no way exhaustive by any means, and both present and future scholarship can delve deeper into these issues. However, conversations about contracted silence, racism, and sexism – and its subsequent issues concerning NDAs– cannot be undertaken without a basic discussion of the prominent role identity plays in society both on and off the screen.

Casting is the very vehicle that propels the producers' ability to carry out their undertakings in producing identity. In his chapter entitled "*Just Be Yourself*," Fox details his personal casting experience as a gay man and professor.<sup>31</sup> He describes how it was not until he played into arbitrary tropes of his identities – for example, wearing a signature bowtie – that he started to perceive that he was getting far in his casting process for *Big Brother*. The more he amplified stereotypes, the more he was fitting into the producer's vision of how he would fit into the role of the archetype he would uphold. The power imbalance between casters and the cast

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<sup>31</sup>Fox, 27.

demonstrates just one way the facade of inclusivity can do more harm than good for participants. The sequence of events that occur in the highly secretive casting process arguably facilitates the most disparity among producers and the “talent” than any other sector of the media industry; ordinary people have no upper hand to wield.<sup>32</sup> As for how a producer finds themselves in this asymmetrical dynamic? Casting practices in Reality Television programs rely on a perpetual and heavy flow of participants as seasons with an entirely new ensemble occur yearly if not more frequently. Casting producers often find themselves participating in the “ongoing promotion of their favorite picks,” through weekly meetings where they vouch for potential participants in a competitive setting.<sup>33</sup> So, casting producers are also competing in their unique arena and, in the meantime, partaking in the business of objectifying. Vicki Mayer, a scholar of media industries and their political economies, illustrates, “Under capitalism, the network, the caster, and the cast member are reified because they have equal value as cogs in the chain of the production process.”<sup>34</sup> With networks, stations, or sponsoring brands at the top of the food chain, casting producers fall closer to the bottom with their participants. Hence, it is in this process that finding an ideal participant means “drawing on familiar clichés about identity,” or a “standard typology” of “characters.”<sup>35</sup> And, in the meantime, the casting producer is a chameleon, shapeshifting to cater to the needs of the specific participant they are scouting. Casting producers talk about the relationships they foster as playing various personas,<sup>36</sup> as they work together to create an ensemble that will effectively play out the plot for the show.

Tropes and archetypes are the very tools used either consciously or subconsciously by the production to perpetuate tokenization in Reality Television shows’ narratives. Perhaps the media

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<sup>32</sup>Turner, 312.

<sup>33</sup>Vicki Mayer. “Cast-aways: The Plights and Pleasures of Reality Casting and Production Studies.” In *A Companion to Reality Television*, 61.

<sup>34</sup>Mayer, 61.

<sup>35</sup>Mayer, 61.

<sup>36</sup>Mayer, 68.

industry's use of archetypes dates back to *Commedia dell'arte*. The early form of professional theater originating from Italy was known for its "...use of 'stock' character types, which mostly fell into three distinct categories: masters, servants, and lovers. Many of the actors wore masks and the dialogue was improvised around a simple comic plot, involving various love intrigues with attendant complications and subsequent happy resolutions."<sup>37</sup> Playwrights like Shakespeare made use of visually identifiable writing, costuming, and movements/physicalities to convey tropes like the tall-slender-figure and short-round-friend dynamic duo. One sees these archetypes in film and media to this day. When one watches a Reality Show these days, they may pick up on recurring types of "characters" the participants uphold. For example, watching *The Great British Bake-Off* one notices that every season there is the "older, clueless man," the "home cook, retired mother," the "meticulous overachiever," the "foreigner," etc. The stock characters of master and servant are now evolved to be more seemingly benign, yet inform our visualization of real people as they are seemingly depicting reality. This can be dangerous as Reality Television "...producers, participants, and fans tokenize people from marginalized groups via racist, homophobic, and sexist tropes of representation."<sup>38</sup> While over the years tokenization has taken modernizing forms, it still stems from a potentially ugly past of power dynamics and identity reductionism.

The inherently pedagogical nature of Reality Television shows makes them a factory of norms. In this machine, when a specific identity is consistently presented in a particular way, the cultural product influences the societal perception of said identity. Reality Television shows are often trying to demonstrate the transformation of ordinary people by teaching their participants and audience members how to "live better." They do so through plots of finding love,

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<sup>37</sup>Peter Jordan. "In Search of Pantalone and the Origins of the Commedia Dell'Arte." *Revue Internationale de Philosophie* 64, no. 252 (2) (2010): 207–8. <http://www.jstor.org/stable/23961163>.

<sup>38</sup>Fox, 3.

makeovers, weight loss, talent competitions, drug interventions, etc. The programming tends to operate with an ideological lens guided by the value systems that dominate contemporary sociopolitics. This instructive, ideological lens they hold underlines that personal self-actualization is for the public good. Media Studies scholar and Reality Television specialist Misha Kavka explains, "...the various subgenres of reality television can be and have been productively read as templates for identity formation, as well as figurations of the way that identity attributes such as race, gender, class, and sexuality are distributed across scales of social value, expectation, and prejudice."<sup>39</sup> Any deviance from this consistent representation usually facilitates tokenization. So, how do participants find themselves playing into these specific representations? It goes back to the notion of the revolving door of participants. Julie A. Wilson explains, "...the star images of reality television celebrities are overdetermined by the reality format, which orientates and limits their potential meanings and values by commanding particular behaviors designed to benefit the program."<sup>40</sup> The dispensability of participants often coerces them to perform into tropes that can be racist or sexist to stay afloat in the competitive market. Both on and off-screen, their unscripted behaviors meet the needs of what the producers mold for the narrative. Performing into archetypes at one's expense for a considerable future is a strenuous process facilitated through the NDA.

From the publication of pseudoscientific images of phrenology illustrating social Darwinist ideas to the political cartoons that have permeated the United States' history of racism, the media has unfortunately perpetually been the site for racism and its visual manifestations. In a sense, this facet of the industry is its most real aspect, as it holds a mirror up to the very society it aims to represent. Essentializing and stereotypically informed perceptions of men and women

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<sup>39</sup>Misha Kavka. "A Matter of Feeling." In *A Companion to Reality Television*, 473.

<sup>40</sup>Julie A. Wilson, "Reality Television Celebrity Star Consumption and Self-Production in Media Culture," in *A Companion to Reality Television*, ed. Laurie Ouellette (Hoboken, NJ: John Wiley & Sons, 2014), pp. 427.



of color are equally as insidious on Reality Television. Most of the time, these are not executed with the producers' malintent, but these representations are nevertheless unacceptable. However, Reality Television and its archetypes, tropes, and tokenization have pervaded popular culture. The industry is a pertinent site of investigation for racial realities because of 1. the genre's claim to present the real and understandings of racial issues, and 2. its ubiquity which has an impact on cultural discourses.<sup>41</sup>

Subpar efforts at representation, inclusivity lacking intentionality, or outward incorrect and racist representations have contributed heavily to racist attitudes and discourse. For one, "Reality TV producers regularly dramatize and racialize good/evil and hero/villain binaries. ... Conversely, villainous behavior tends to only be coded as an asset or positive characteristic when a competitor is a White man."<sup>42</sup> The black and white, good and evil dichotomization of media is ever-present in Reality Television's depiction of ordinary people. This juxtaposition facilitated by hegemonic representations of race through depictions of violence and anger and its consequent racial conflict is an unfortunate hallmark of the genre throughout its existence in the mainstream. Early shows like *Cops* consistently commodified the surveillance of White cops catching Black and Latine criminals. Shows like *Survivor* and *Big Brother* dramatized race by situating racial issues and opposing viewpoints in competitive settings. Thus, when called upon for audience interactivity, viewers feel compelled to join in through social media. Fox calls this, "... 'performative spectatorship' to theorize how audience members aid in the rhetorical and theatrical construction of sexual minorities and people of color. Racist, sexist, and homophobic stereotypes constrain and enable how viewers interpret gay characters, women, and people of

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<sup>41</sup>Catherine R. Squires. "The Conundrum of Race and Reality Television." In *A Companion to Reality Television*, 264.

<sup>42</sup>Fox, 18.

color.”<sup>43</sup> Participants are forced to fit into racial archetypes, and may actively fight against doing so, but have little to no control over the narratives. Production teams help facilitate specific televisual receptions through the edit – devices like music and narration – which underscore certain character motifs.

The intersectionalities surrounding race and class cannot be examined without discussions of gender in Reality Television. For instance, explicit representations of gendered heterosexuality that are seen in Reality Television are highly classed. Lower-class and nonwhite sexuality is the very intersection that has been represented in media as being more explicit than its other counterparts. Finally, working-class women are in triple jeopardy for being Reality participants, and if you are a woman of color with those identities you encounter even more harm. As an example, the “Fantasy Suites” episode of *The Bachelor* franchise facilitates a celebrated, ceremonial, and eventual consummation of a relationship. Thus, “In the context of a current neoliberal hegemony stressing the ‘perfection’ of bodies and personalities along a distinctly white, middle-class continuum, such images can either constitute rebellion from these strictures or become the objects of ridicule and abjection, or both.”<sup>44</sup> This is a mirror of the second-wave feminist movement as a whole and its hypocrisies, never fully developing a comprehensive lens to its calls. Hence, Reality Television’s portrayals only further perpetuate these notions in the real world.

As a response to an awareness of these matters, the call for representation in entertainment media is rightfully gaining prominence in cultural discourse. In the case of Reality Television, representation exists in three ways: representing the self, having representation on screen, and how representation manifests itself on the screen. Representation also walks a fine

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<sup>43</sup>Fox, 20.

<sup>44</sup>Andrea Press. “Fractured Feminism: Articulations of Feminism, Sex, and Class by Reality TV Viewers.” In *A Companion to Reality Television*, 214.

line between itself and exploitation. Unfortunately, the producers of the later phases of the genre have come to commodify drama and comedy from the very identities that grounded the industry in its realism. Its effects are insurmountable on society's culture as a whole. If a viewer is encountering a specific identity for the first time through the representation that identity is receiving through a show, and that representation is faulty or false playing into archetypes and tropes, then that will inevitably shape that audience member's perspective on that identity. If they have a negative perception of that identity, it can even lead to micro and macro-aggressions to that identity.

Thus, there exists a Catch-22 in self-presentations within Reality Television. One of the most important tasks for a participant is to make sure they are presenting themselves with their most authentic selves to garner the level of interactivity they need to succeed. For this, participants perform authenticating acts like speaking in a confessional– or a narrating or commentary aside where a participant speaks directly to the camera usually by themselves. On the other hand, the participant might have presented themselves a certain way to get that far in the production process and might need to work hard to uphold that identity post-production. On top of this all, there are also racial nuances to this matter. In Reality Television, authenticity means calling for vulnerable displays of emotion; that emotion is linked to “realness.” Contradictory to this, participants of color often find themselves caricatured for being overly emotional. These moments of “emotional excess” have been the very instances cited in the cultural discourse legitimizing racial discrimination. Ragan Fox cites numerous cases of this on *Big Brother* alone. For example, “The moment a Black woman raises her voice in the Big Brother house, she becomes the proof of the truth of the angry, Black woman stereotype. Her anger authenticates her Blackness and emotionality/femininity and lends credence to Big

Brother's purported reality."<sup>45</sup> Whereas white heterosexuality and its embodiment of U.S. individualism is a legitimating and crucial path to victory, exhibitions of negative emotions from participants of color are very quick to authenticate false stereotypes.

The invisibility and optional ethnicities of whiteness allow a white participant to present a more unique and authentic self as opposed to their counterparts. Catherine Squires explains, "Perhaps the privileges, or the 'invisibility,' of whiteness provides white reality television participants with an easier time giving the impression that they are presenting an authentic self than African Americans." Participants of color are inevitably lumped into a homogenous identity by producers, participants, and audiences alike first and foremost. They must labor additionally to present themselves in the way they like, and have more to work against. The additional burden of representation on Reality Television participants of color. If examining Reality Television confirms anything, "...it is that many characters and scenarios across a range of programs resonate with hegemonic race/ethnicity, class, and gender stereotypes. Thus, we must ask whether these 'real' representations have a greater impact than those that can be brushed off as 'just entertainment.'"<sup>46</sup> Participants of color are on shows representing themselves with the additional burden of external factors like stereotype threat and essentializing groupings. I will demonstrate this very phenomenon playing out on live television in the case study in Chapter Six. Not only do participants of color have to "be real" to represent themselves as individuals, but they also have the burden to represent their marginalized identities as "upstanding enough."

### **The Economy of Reality Television**

Capitalism and profitability have infiltrated Reality Television as in every industry. The production of the genre has developed its own recognizable and functioning economy. On the

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<sup>45</sup>Fox, 95.

<sup>46</sup>Squires, 278.

surface, there are advertisements and commercials interwoven among the episodes. Over time, formal sponsorship and product placement found their places in the public's consciousness as the necessary monetary forces to ignore or even mock. By the late 90s and early 00s, it had become clear that the means of production of the genre was no longer controlled by those participating in it. However, deeper scholarship begins to recognize a deeply, economically exploitative sector of the media industry. Further, when treated as a profitable business, it is no wonder NDAs have thrived.

There is inherent profitability to the genre. Ross confirms, "The production costs of these shows are a fraction of what the producers pay for conventional, scripted drama, while the ratings and profits have been mercurial."<sup>47</sup> These shows yield a high return to low financial investment. One thing this fact owes itself to is the use of eager, free, amateur labor. Participants often find themselves having to put their lives on hold— especially their jobs— and build a reliance on the basic provisions of production as they are temporarily "employed" for free.<sup>48</sup> Further, as previously discussed, amateur participants are not considered actors by neither the industry nor the public due to their involvement within a "real" depicting and unscripted genre. In turn, this amateurism culture has facilitated the proliferation of participants making use of sponsored content on their social media platforms. This phenomenon has facilitated the convergence of the Reality Television industry and social media, as participants enter shows as amateurs and exit with a following that can be profited from through social media channels. A cog in the wheel of this jackpot economy, the participants with the most screen time inevitably convert to more followers on social media platforms. Mayer calls this self-objectification for money "...the most

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<sup>47</sup>Ross, 31.

<sup>48</sup>David Arditi. "The Voice: Non-Disclosure Agreements and the Hidden Political Economy of Reality TV." *Popular Communication* 18, no. 2 (2020): 145.

‘real’ aspect of reality television.”<sup>49</sup> Participants in this phase of Reality Television’s timeline understand that all forms of attention have a conversion to profitability. June Deery, who studies contemporary television on online platforms, writes about this in her piece mapping the commercialization of the industry: “Even negative reactions can add value to the media product since all viewers – whether they are watching as fans or anti-fans – are included in the ratings.”<sup>50</sup> The public nature of the conversations, tensions, and confrontations of the participants and plot lines render it all commodifiable. Producers and participants alike have found that viewers tune in more for drama. Implementing the “not here to make friends” mentality – or the phrase often expressed when a participant unabashedly displays no care for their peers – participants can assess their assets and play up their unlikability for ratings. This will garner them more social media followers, subsequently more brand deals, and consequently more money.

Alison Hearn – a scholar of the intersections of digital media, promotional culture, and self-presentation – synthesizes these aforementioned, various tenets of the economy of Reality Television and applies the Immaterial Labor Thesis. Hearn discovers that “...capital continues to impose measurement systems to determine socially necessary labor time no matter how diffuse or social that labor might be, and that this imposition continues to produce the alienation and exploitation of many for the benefit of a few.”<sup>51</sup> Immaterial labor theory states that worth is derived from both intellectual and affective labor, which is then commodified within capitalist economies. Although the labor produced by Reality Television crews and participants is social and immaterial, there is still a material output that ultimately benefits the networks. Every facet of the labor required in generating this cultural good is commodified; the creative is the

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<sup>49</sup>Mayer, 58.

<sup>50</sup>June Deery. “Mapping Commercialization in Reality Television.” In *A Companion to Reality Television*, 17.

<sup>51</sup>Hearn, Alison Mary Virginia. “Reality Television, The Hills, and the Limits of the Immaterial Labour Thesis.” *TripleC* 8, no. 1 (2010): 60.

proprietary. Hearn argues that the genre “...is a site of, both, material and ideological production...” as “the labor of the on-air participants involves modeling how to live a perpetually productive life inside the social factory by becoming a ‘branded self.’”<sup>52</sup> Here, Hearn expresses that Reality Television participants are immaterial laborers in that they are models of neoliberal citizenship. What this means is, through the engagement with formats like the makeover show, participants demonstrate to the audience the need to “work on the self” to achieve what they want to light. This shifts attention away from systemic forces working against them, such as historical or structural barriers that limit individuals. Further, Reality Television’s production model eats up this thesis, as the business models “radically lower production costs by ... summon[ing] participants to ‘be themselves’ on television for free by mythologizing the processes of creative, innovative, virtuosic self-performance and highlighting the television industry’s centrality to these same processes.”<sup>53</sup> The producers and networks mythologize the creative process of the performance of the real self. Thus, the participant is a performer producing art like an actor without an artist’s recognition, as well as an employee producing products like a worker without an employee’s rights.

There is almost an inelastic supply of participants and a high demand for a spot on the show. The producers know “...there is no shortage of ‘real’ people eager to surrender their privacy for a spot on prime-time television giv[ing] the networks bargaining power and the confidence in the face of lawsuits...”<sup>54</sup> There is a revolving door of participants, so the producers treat participants as disposable. In essence, Reality Television is a form of media inexpensive to produce where participants barter a sugar-coated vision of an experience for cheap labor for the network. These television production companies sell and encourage potential

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<sup>52</sup>Hearn, 61.

<sup>53</sup>Hearn, 61.

<sup>54</sup>Andrejevic, *Reality TV: the Work of Being Watched*, 11.

participants to embark on a once-in-a-lifetime experience for the price of cheap or free talent.<sup>55</sup> Reality Television show participants effectively “sign away their rights.”<sup>56</sup> Then, either by willing submission or coercion, participants are effectively rendered servants to the Reality Television industry’s profiteering.

### **The Exploitative Bargain**

The Reality Television industry’s production practices, consequent culture production, and the tendency for secrecy could not be made possible without the “Exploitative Bargain” participants must make. A term coined by Andrew Ross in his article on the political economy of amateurism, the “Exploitative Bargain” can roughly be summed up as the large price participants must pay for the small chance at fame. Ross states, “It is an ethos that demands that we are all participants in a game that rewards only a few, while the condition of entry into this high-stakes lottery is to leave your safety gear at the door; only the most spunky, agile, and dauntless will prevail, but often at a high psychic cost. The creative economy itself has been promoted as a sweepstake with lavish rewards in the form of blockbuster hits and returns on intellectual property.”<sup>57</sup> Ross continues by assuring, “...recognition of their image or talent can, over time, bring some measure of security, because social capital has a utility well beyond the moment.”<sup>58</sup> Ross explains the “Exploitative Bargain” in terms of the uncertainty surrounding employment the crew and participants experience. It is important to emphasize that most participants are “youthful entrants,” as Ross refers to them, and thus “most roundly exploited in this kind of economy.”<sup>59</sup> Prospective participants are reeled in by the allure of media fame, especially in the age of social media where one can capitalize on mere moments of screen time. However, in this

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<sup>55</sup>Turner, 315.

<sup>56</sup>Arditi, 139.

<sup>57</sup>Ross, 34.

<sup>58</sup>Ross, 36.

<sup>59</sup>Ross, 36.



process of gaining a foot in the door, they have no choice but to sacrifice legal rights, personal life, stable and accurate compensation, etc. in hopes of reaping potential rewards.<sup>60</sup> The production has become a master in enticing its participants with the prospect of fame and directly benefits from this non-union, oftentimes free labor, raw talent, and subjects for their narratives. If they do not sign an NDA, for instance, another participant readily will.<sup>61</sup> In essence, the “Exploitative Bargain” is the machine that propels the Reality Television industry and keeps it going. Social contract theory can help make sense of this phenomenon.

Thomas Hobbes’ 1651 *Leviathan* is one of the most notable works philosophizing social contract theory. The enlightenment philosopher situated this contract in terms of government and the governed. Hobbes asserted that the social contract was an event where individuals came together to cede some aspects of their rights.<sup>62</sup> He argued that the power of the sovereign was justified by the consent of the governed in an implied social contract for the guarantee of order, peace, safety, etc.<sup>63</sup> Social contract theory follows a model; a general form for social contracts. The model is as follows:

“P chooses R in S and this gives I\* reason to endorse and comply with R in the real world insofar as the reasons P has for choosing R in S are (or can be) shared by I\*”<sup>64</sup>

Here, S is the setting; R are the rules, principles, and institutions; P are the hypothetical people making the social contract; and I\* are the individuals following the social contract. In this case, S can represent the Reality Television Industry, R the industry practices, P the participants entering the “Exploitative Bargain,” and I\* the producers and consumers of Reality Television. Social contract theory applies to the Reality Television industry and the “Exploitative Bargain” in

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<sup>60</sup>Hearn, 71-72.

<sup>61</sup>Arditi, 139.

<sup>62</sup>Fred D’Agostino, Gerald Gaus, and John Thrasher, “Stanford Encyclopedia of Philosophy Archive,” in *Stanford Encyclopedia of Philosophy Archive*, ed. Edward N. Zalta (Metaphysics Research Lab, Stanford University, 2019).

<sup>63</sup>D’Agostino, et al.

<sup>64</sup>D’Agostino, et al.

almost every one of its facets. It facilitates the concepts of production culture and culture production in the spheres of scripting & editing, profitability, democratism, surveillance, and identity & representation exploitation just to name a few explored in this paper. And, most notably, the Non-Disclosure Agreement is the very contract that makes it happen; the very tool that facilitates the “Exploitative Bargain” to persist in all realms of Reality Television. Reality Television is the Leviathan one must succumb to for fame and entertainment.

## Chapter Three

### The Non-Disclosure Agreement

#### Definition & Components

The Non-Disclosure Agreement (NDA), or Confidentiality Agreement, is a legal contract not only ubiquitous in American society but also pervasive in the Reality Television industry. Simply put, it serves as a document signed by parties outlining the confidentiality of specific knowledge that the parties wish to share with each other but restrict from others.<sup>65</sup> The NDA can be a stand-alone document or a part of a larger contract or settlement. Signees are bound not to disclose information like trade secrets or disputed matters. In its original form, the NDA's goal is to protect non-public information and, when in violation of an NDA, the violating party must pay damages. So, how does a legal document with origins tracing back to 1940s Maritime Law<sup>66</sup> become a powerful tool for trade secrecy in innovative sectors like Reality Television?

Employees, contracted laborers, participants, and audience members are asked to sign these agreements sometimes in exchange for a sum of money or being privy to an experience or opportunity. The mechanics of the NDA can offer insight as to which parties are specifically bound by what. The agreement has all the essential elements of a contract that can operate within the American legal system: offer, or the promise to not do something in exchange for something else; acceptance, the agreement to the terms; capacity, the person's ability to satisfy the elements; and consideration, the compensation.<sup>67</sup> NDAs can be unilateral, bilateral, or multilateral, and stipulate a variety of common issues that may transpire between parties. First, the agreement will make sure to outline the parties of the agreement, define what is confidential, and delineate the

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<sup>65</sup>Joe R. Thompson. "Overview of Confidentiality Agreements." *Iowa State University Extension and Outreach*, 2013.

<sup>66</sup>Rachel S. Spooner, "The Goldilocks Approach: Finding the "Just Right" Legal Limit on Nondisclosure Agreements in Sexual Harassment Cases," *Hofstra Labor & Employment Law Journal* 37, no. 2 (Spring 2020): 336.

<sup>67</sup>Spooner, 343.

disclosure period.<sup>68</sup> Next, it will address exclusions to restrictions, like prior knowledge or subpoenas.<sup>69</sup> Further, there may be descriptions of the obligation of recipients – like who the information can be disclosed to and when to use the confidential information – as well as times when disclosure is permitted – like a court order.<sup>70</sup> Finally, the document will indicate the jurisdiction in which it will hold up, like a specific court or country.<sup>71</sup> Below is a blank template of a Non-Disclosure Agreement highlighting some of these very components. It is the first page of a document that can be as short or exhaustive as the party restriction information access pleases.

### NON-DISCLOSURE AGREEMENT (NDA)

This Nondisclosure Agreement or ("Agreement") has been entered into on the date of \_\_\_\_\_ and is by and between:

**Party Disclosing Information:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Disclosing Party").

**Party Receiving Information:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Receiving Party").

For the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship concerning the disclosure of certain proprietary and confidential information ("Confidential Information").

**1. Definition of Confidential Information.** For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business in which Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide writing indicating that such oral communication constituted Confidential Information.

**2. Exclusions from Confidential Information.** Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Party's prior written approval.

**3. Obligations of Receiving Party.** Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. Receiving Party shall not, without the prior written approval of Disclosing Party, use for Receiving Party's benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of Disclosing Party, any Confidential Information. Receiving Party shall return to Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.

**4. Time Periods.** The nondisclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

Figure 1. Sample Non-Disclosure Agreement Template<sup>72</sup>

<sup>68</sup>Thompson.

<sup>69</sup>Thompson.

<sup>70</sup>Thompson.

<sup>71</sup>Thompson.

<sup>72</sup>Figure 1. *NonDisclosureAgreement.com*, accessed 2022, <https://nondisclosureagreement.com>.

## Accessibility & Inaccessibility

The above sample template of a blank Non-Disclosure Agreement is the first link of many pages of downloadables after just a quick Google search. Websites like LegalTemplates.net, EForms.com, RocketLawyer.com, and LawDepot.com are just a few templates accessible to the general public. The fill-in-the-blank structure allows anyone to plug in their information and create a Non-Disclosure Agreement for themselves and their proprietary secrets. On the other hand, seeking public records of NDAs is an incredibly restricted task. One must have at least the clearance of a Law student to have access to the legal databases which have past settlements and lawsuits including these agreements or breaches of them. So, it is incredibly easy for a layperson to draw up a confidentiality contract. Yet, there is much red tape restricting access to records to these agreements.

The NDA has a primary role in curtailing information from the public within the business. Law Professor Maureen A. Weston explores these concepts of accessibility and inaccessibility in her article “Buying Secrecy.” Weston explains, “The law promotes private settlement of disputes... The use of private dispute resolution, at times, however, can have a ‘darker side.’”<sup>73</sup> While she refers to out-of-court settlements for sexual harassment— a different use for the document than that of RTV— there are many comparisons about the implications of the secrecy enabled. American legal norms encourage the privacy of NDA disputes, creating an air of secrecy. Further, this “...has public costs and can adversely impact others. The public loses the value of a published written judicial decision, which can provide precedential value to guide the conduct of others on how to comply with the law.”<sup>74</sup> Settlements shrouded in secrecy hinder transparency in the resolution process. In turn, without open access, the courts’ job of providing

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<sup>73</sup>Maureen A. Weston. “Buying Secrecy: Non-Disclosure Agreements, Arbitration, and Professional Ethics in the #MeToo Era.” *University of Illinois Law Review* 2021, no. 2 (2021): 104.

<sup>74</sup>Weston, 137.

a public service is curtailed. This way, future participants may know less about what they may be getting into with a specific franchise or Reality Television in general. So, while privacy is important for involved parties, buying and selling silence may inflict harm to the public.

### **A Codified Culture of Silence**

The Non-Disclosure Agreement fosters a culture of silence that is codified in our very own legal systems. David Arditì asserts, “Silence upheld by the law is the unashamed goal of NDAs.”<sup>75</sup> The use of the NDA itself is not a secretive practice; it is pretty well-known that secrecy is a vibrant practice of the entertainment industry, government sectors, etc. Rather, the contents and practices the NDA aims to protect are what are being withheld from the general public. Business Law Professor, Rachel S. Spooner, expresses how a seemingly “...innocuous provision in an employment contract became a silencing tool that cultivated cultures of harassment and allowed sexual predators to carry on in our workplaces.”<sup>76</sup> The use of NDAs is an entirely legal practice and cannot protect against illegal acts. However, it highly disincentivizes whistleblowing – or the act of exposing information or activity within an organization that is deemed immoral, fraudulent, or abusive.<sup>77</sup> The bigger the organization and the higher stakes the information, the more air-tight this contract is written up. And, of course, the Reality Television industry and the networks that produce them are very powerful.

Secrecy is an ally of harm and NDAs are the ally of secrecy. Litigator Vasundhara Prasad argues that “...because the most egregious offenders of sexual assault and sexual harassment prohibit victims from speaking out through the brazen use of NDAs, courts should take on a heightened role in determining whether such agreements are enforceable as a matter of law.”<sup>78</sup>

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<sup>75</sup>Arditì, 140.

<sup>76</sup>Spoooner, 331.

<sup>77</sup>Arditì, 141.

<sup>78</sup>Vasundhara Prasad. “If Anyone Is Listening, #MeToo: Breaking the Culture of Silence Around Sexual Abuse Through Regulating Non-Disclosure Agreements And Secret Settlements.” *Boston College Law Review* 59, no. 7 (2018): 2509.

The legal document is no longer benign, but a tool wielded by harmful individuals and businesses. NDAs can be useful, reasonable, protective, and purposeful for the right reasons.<sup>79</sup> Yet, in their *Hushing Contracts*, David A. Hoffman and Erik Lampmann talk about how it can also set into motion a cycle of harm. They illustrate, “When a firm pays a survivor to remain silent about past abuse, it is more likely to leave in place abusers and the culture that enables them. The result is to increase in the incidence of and harm caused by sexual harassment. It does so directly: when firms hide information about wrongdoing, they can avoid reputational harm by retaining abusers in their positions. It also does so indirectly: organizational cultures that pay off survivors of harassment are ones where, over time, women feel unwelcome.”<sup>80</sup> This positive feedback loop of harm fosters a culture of silence surrounding harmful individuals and practices. The private dispute resolution process and its provisions can cause trauma.<sup>81</sup> Victims leave settlements feeling both violated by their perpetrators and the law as full accountability is never achieved and the practice potentially continues unchecked. So, how does this codified culture of secrecy manifest itself in Reality Television?

### **NDAs in Reality Television**

Recently, the public has been all too well acquainted with Non-Disclosure Agreements, as it not only protects confidential business information but has enabled harmful industry practices in very visible sectors like Hollywood. The #MeToo movement revealed the widespread use of NDAs to silence the accusers in the entertainment industry’s workplace sexual harassment and sexual assault claims. The movement has been influential in heightening public awareness of forced agreements buying silence, and “Heightened awareness of the use of forced

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<sup>79</sup>Kevin W. Saunders, “Non-Disclosure Agreements, Catch and Kill, and Political Speech,” *University of Louisville Law Review* 58, no. 2 (2020): 283.

<sup>80</sup>Hoffman, & Lampmann, E. (2019). *Hushing Contracts*. *Washington University Law Review*, 174.

<sup>81</sup>Weston, 107.

arbitration in sexual misconduct cases has caused several major corporations to reconsider their use.” Legal scholars have concentrated their forces in these highly glamorous and visible instances. Yet, the NDA has been alive and well in the Reality Television industry. Academic attention considers NDAs as a player in the game of harmful business practices, yet hesitates when connecting correlation with causation. I argue that, just as NDAs allow sexual harassment to be a prevalent aspect of the workplace, so does it perpetuate the racism that runs rampant in the Reality Television industry.

Reality Television is a site where the Non-Disclosure may show itself more frequently than in other film industries. The production practices behind Reality Television shows “...are heavily guarded secrets, protected by iron-clad non-disclosure agreements, which everyone, from the executive producer to the lowly logger, is forced to sign.”<sup>82</sup> The shows that viewers enjoy on their screens are planned, produced, filmed, and edited months in advance. Not only that, there are a diverse variety of interactants to the production. Unlike the established cast and crew on a set of scripted filming, there are numerous turned-away participant applicants, live audience members, the family and friends of participants, etc. In that process, to protect the novelty and impact of the material, NDAs come into play. Such confidentiality agreements can be used to halt “unauthorized storytelling” which needs to be “monitored and managed” to prevent the leaking of secrets which is seen to be an “institutional threat.”<sup>83</sup> Interactants at various levels of the production cannot share production information or facilitate press gossip. The producers and networks also want to be able to control all narratives about the production as well as obfuscate their machinations.

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<sup>82</sup>Hearn, 67.

<sup>83</sup>John Thornton Caldwell. *Production Culture : Industrial Reflexivity and Critical Practice in Film and Television*. Durham, N.C: Duke University Press, 2008, 60-61.



This paper has shown the numerous venues wherein producers work tirelessly to obfuscate how they manufacture reality. The producers actively want to detract awareness from their machinations using mechanisms like the NDA which stop both active and passive interactants from spreading confidential information. The goal is to obfuscate harmful industry practices and their legitimate impacts. The signing of an NDA means that industry insiders cannot give the public the full picture, “Interviews with and statements by the producers and craftspeople in film can be conceptually rich, theoretically suggestive, and culturally revealing, yet we should never lose sight of the fact that such statements are almost always offered from some perspective of self-interest, promotion, and spin.”<sup>84</sup> The producers may outwardly convey the sense that they are sharing or allowing the sharing of what lies behind the scenes. For that reason, it is important to bear in mind that the industry will always prioritize the proprietary. Internal practices and the final narrative are shielded possessively through employees signing of NDAs. However, the producers themselves may choose to paint their picture, a controlled narrative.

Contracts are the structures dictating the relationships between the producers and the network with the other interactants with the filming process and documents which can control the final narrative. In the Reality Television industry, whether with good, neutral, or bad intentions, contracts foster hegemony, or “...this coercive mechanism created a sense of voluntary consent, which producers hide from the public.”<sup>85</sup> They provide incentives making it appealing to potentially sign away rights. In the meantime, if one participant or audience member, or crew member refuses to sign an NDA, there is always a whole reserve of individuals ready to make that Exploitative Bargain. At the end of the day, even neutrally coerced control is

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<sup>84</sup>Caldwell, 14.

<sup>85</sup>Arditi, 139.

legal exploitation. Measures to control the narrative of production have gained much popularity throughout. There's the daytime news-press junket participants can make, insider interviews with *Entertainment Tonight*, "Tell All" episodes, and ghost-written memoirs. Recently, deep-dive podcasts have gained traction, with "The recent explosive growth and popularity of self-referencing, self-disclosure, and organizational transparency..."<sup>86</sup> For instance, *The Office Ladies* is a beloved, chart-topping podcast that is hosted by two main cast members and delves deep into the production of their hit show. While they are sharing entirely factual information about the show's creation and their experiences, the top-down vantage point often dominating ethnographies can systematically overlook the economic and ideological complexities of production culture. The industry inherently breeds self-reflexivity and, "Film and television invest tremendous resources in producing self-analysis and critical knowledge about the industry, a habit that complicates attempts to study them."<sup>87</sup> At the end of most DVDs of major productions is a behind-the-scenes documentary or commentary. As for Reality Television itself, the show *UnReal* is a fictitious drama about the chaos surrounding the production of a dating show, accompanied by how its young producer protagonist manipulates relationships both on and off-screen. All of these are instances, where a production wishes to tell the story of their industry. Be it a podcast, a critical tale, a prideful the-making-of, or an interview, much money is spent on making sure the narrative is controlled.

So, what happens if there are incongruencies in the narrative; when self-disclosures and non-disclosures clash? John Thornton Caldwell describes the first contradiction of contemporary production culture to be a recipe of excessive self-disclosure and proprietary non-disclosure: "First, as contemporary media corporations institutionalize the most extreme forms ever of

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<sup>86</sup>Caldwell, 323.

<sup>87</sup>Caldwell, 316.

proprietary vigilance and employee non-disclosure, contemporary production cultures churn out the most excessive forms ever of textual reflexivity and self-disclosure. I would argue that this contradictory manic public self-disclosure/legal corporate non-disclosure behavior is one of the defining properties of the new multimedia conglomerates.”<sup>88</sup> The second contradiction is the positive correlation between greater industrial access and greater legal actions taken for inaccessibility. Caldwell illustrates, “Alongside this well-oiled double bind comes a second increasingly manic routine: the promotion of greater industrial access together with vigorous legal actions to shut access down.”<sup>89</sup> In turn, the final dish served is the perfect combination of a deep exploitative relationship with the consumer and the ability to shield company secrets. Caldwell argues, “The manic self-disclosure/social nondisclosure stance is a calculated corporate practice that reaps institutional benefits: excessive disclosure/nondisclosure cultivates deeper relations with consumers, even as it manages industrial knowledge to sanction conglomeration.”<sup>90</sup> Caldwell thus produces a theory to help explain the practice of obfuscation and narrative control NDAs facilitate in contemporary production culture.

Harmful practices are obscured when the powerless and vulnerable are restricted by the powerful. The proliferation of NDAs shrouds reality in secrecy and silences practices that are negatively impactful on a range of scopes.<sup>91</sup> In the end, Reality Television networks and producers attempt to produce a false reality through their use of NDAs. For most involved, “NDAs obscure the social relations of production – they create alienation for workers across industries. Relying on NDAs to conceal labor practices creates a false reality for the public; reality TV creates a false reality.”<sup>92</sup> Non-Disclosure Agreements are not just harmful to Reality

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<sup>88</sup>Caldwell, 339.

<sup>89</sup>Caldwell, 339.

<sup>90</sup>Caldwell, 340.

<sup>91</sup>Arditi, 148.

<sup>92</sup>Arditi, 149.

Television participants, as they are treated poorly and cannot speak up about it. When the public is unaware of the wrongs of the industry, tunes in to the content, consumes the media, and absorbs its cultural goods and messages, they are subconsciously normalizing the industry practices and its products. They are providing the ratings for the cultural goods they will be negatively influenced by. In the next chapter, I will study a recent case of the NDA obscuring key details about a harmful production. I will explore a junction in the conversation of race & representation, buying secrecy, and numerous other facets of the genre. Finally, I will explain the downfall of a franchise and its lasting effects, implications, and indications to American culture and society.

## Chapter Four

### A Case Study of *The Bachelor* Franchise

#### The Introduction to a Franchise

*The Bachelor's* Season One Episode One aired in the United States on the ABC Network in 2002. Since then, the Reality Television franchise has produced twenty-five seasons of *The Bachelor* alone— not to mention eighteen seasons of *The Bachelorette* along with ten seasons of satellite show formats, podcasts, etc. Averaging three seasons of production a year, *The Bachelor* franchise's resilience over the years has established a strong presence on its network's roster for the majority of the year and has prevailed consecutively above other Reality Television shows. It has remained a cornerstone of the industry and television as a whole, even though it is neither the first reality show nor the first "game" competing for love. Most media consumers in the U.S. would be able to give a simplified version of the show even if they have not watched it. Roses, drama, and the quest to find love among multiple candidates are a schema recognizable for all ages. *The Bachelor's* format, participants, and plots have integrated into American popular culture as vernacular.

The show's longevity as well as its range in the content have proved it optimal for both longitudinal, latitudinal, and comparative studies. Rachel Dubrofsky asserts that the shows "offer a compelling opportunity for an analysis of how gender functions in popular media sites" as well as a "rich site of inquiry as media texts that span a significant period of time (for a reality show), with two comparative series, one featuring men, the other women."<sup>93</sup> In her essay, "The Bachelorette's Postfeminist Therapy," Dubrofsky argues "how claims to emotional health and happiness are constructed within the space of the shows, how these claims animate key feminist concerns about postfeminist tensions between career and love, and the connections made

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<sup>93</sup>Dubrofsky, "The Bachelorette's Postfeminist Therapy," 191-192.

between these tensions and ideas about therapeutic transformation.”<sup>94</sup> Her thesis details how the show has chosen to exploit the post-feminist era’s career versus love narrative and has pathologized an overvaluation of a career as a fear of intimacy and an obstacle to finding love. Dubrofsky also discusses how the majority of the show’s lifetime has inhabited an era that claims to be “post-racial.” Diversity is not a featured aspect of the shows’ narratives, as the franchise upholds the “ethos in which race is not seen as mattering (so efforts at diversity are no longer important) since racial equality has been achieved.”<sup>95</sup> Over the years, the cast has included participants of color. However, they have rarely gotten far in the narratives of the shows, only a couple have been leads or front-runners, and quite a few have been tokenized. Consequently, a history of representational negligence developed within the franchise.

In April of 2012, Claybrooks and Johnson, two show applicants, filed a class action complaint against American Broadcast Companies, Inc. (ABC), Warner Horizon Television, Inc., Next Entertainment, Inc., and NZK Productions, Inc., along with the producers of the show. Dubrofsky briefly mentions how “two black men, Nathaniel Claybrooks and Christopher Johnson, recently brought a lawsuit against ABC, accusing the network of racial bias in their casting procedure, claiming they were rejected during auditions because of their race.”<sup>96</sup> The lawsuit fought for the claim that no leading role had ever been given to a person of color because “[a]ll applicants of color ... [had] been denied the same opportunity as their white counterparts to compete for the role of the Bachelor and Bachelorette due to their race and/or color.”<sup>97</sup> Claybrook and Johnson were seeking “injunctive and declaratory relief as well as punitive damages.”<sup>98</sup> Rather than monetary payment, the plaintiffs sought a court order for the defendant

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<sup>94</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 193.

<sup>95</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 194-195.

<sup>96</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 195.

<sup>97</sup>Gerard, 2-3.

<sup>98</sup>Gerard, 2-3.

to stop a specified act or behavior. Further, they asked for an official declaration regarding the status of the controversy in issue. Yet, the court found that “casting decisions are part and parcel of the creative process behind a television program--including the [shows] at issue here-- thereby meriting First Amendment protections against the application of anti-discrimination statutes to that process.”<sup>99</sup> The court’s decision sought to ensure the protection of the producers’ freedom of speech under the Bill of Rights. The franchise was not held accountable. While this case was an employment discrimination suit dismissed on First Amendment grounds, it is a telling one for the franchise and industry’s history of secrecy. It demonstrates how the continuous use of NDAs contributes to racially discriminatory practices. By restricting participants from sharing instances of labor malpractice—specifically identity discrimination— the industry makes it harder for cases like this to draw on any prior evidence. Subsequently, this allows for patterns of discrimination to go unnoticed.

Even though the reality show was meant to portray the real love of ordinary people, it seemed to focus on only a subset of the American population. Thus began the complicated relationship between *The Bachelor’s* implicit claim to represent real American love stories and how they were represented in their narratives. One must consider how television ratings operate to understand whether the audience determines narrative or narrative determines the audience. Nielsen ratings are the systems operated by Nielsen Media Research that seek to measure the audience size and composition of television programming in the U.S.<sup>100</sup> Nielsen provides a glossary of their terminology and considered variables; the qualitative and quantitative data it collects.<sup>101</sup> Criticisms of Nielsen ratings, however, have included the obsolescence of the system

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<sup>99</sup>Gerard, 2-3.

<sup>100</sup>“About,” Nielsen, October 21, 2021, <https://global.nielsen.com/global/en/about-us/>.

<sup>101</sup>“Nielsen Local TV View,” accessed December 10, 2021, <https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/NLTV-Glossary.pdf>.

which calculates based on individuals tuning in through a television set while the programming airs live. Since around 2006, online streaming has gained significant prominence over live, cable, or broadcast television. Yet, it was just in 2017 that only select streaming services permitted their data to be attempted to be recorded.<sup>102</sup> While strides have been made recently to remedy this issue, there is still much to solve about how audience data is measured. In the meantime, however, the Nielsen numbers on demographics are still heavily relied upon.

Television ratings can no longer fully reflect who is truly watching. Nevertheless, Reality Television— especially *The Bachelor* franchise’s productions— are produced and marketed towards a majority of White, female, and middle-aged audiences to reflect the television ratings it receives. According to Heather Nunn and Anita Biressi, “sentimentality” is wielded “as a televisual mechanism” since Reality Television culture is “aimed specifically at female audiences.”<sup>103</sup> A reputable surveying source, YouGovAmerica, estimates, “Bachelor Nation skews toward women (77%) over men (23%). Its audience is also heavily white: three-quarters (75%) of those who have tuned into the reality show over the last year are Caucasian.”<sup>104</sup> However, numerous demographics of individuals comprise Bachelor Nation across gender and race. Bachelor Nation is the umbrella phrase that defines figures from the franchise’s shows as well as invested Bachelor fans. These very individuals, especially the demographic of 18 to 24-year-old viewers, are consuming the programming primarily through online streaming services. Further, these are the very consumers who, due to their age, are most likely exposed to social media platforms where they can interact with the discourse surrounding the show. Thus, although they are calculated to be a minority of the audience, they are the loudest and have the

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<sup>102</sup>“About.” Nielsen.

<sup>103</sup>Heather Nunn and Anita Biressi. “Walking in Another’s Shoes.” In *A Companion to Reality Television*, 479.

<sup>104</sup>Linley Sanders, “What Type of Person Is Part of Bachelor Nation?,” YouGov (YouGov, November 16, 2020), <https://today.yougov.com/topics/media/articles-reports/2020/11/16/bachelor-nation-profile-poll>.



potential to be the most influential. However, historically, networks have been able to divert complaints, paying attention to ratings alone. Once again, the negative attention was still attention and thus profitable. If ratings continued to be favorable, the production continued as is. Until 2020, *The Bachelor* franchise heeded to its ratings. That is until the Bachelor Diversity Campaign changed the game.

### **The Bachelor Diversity Campaign**

Social movements are seldom spontaneous. For a protest to have a more poignant impact, activists often operate discreetly for their cause to identify political opportunities before protesting openly. While at face value this may appear to detract from the authenticity of a movement, it proves its legitimacy and consciousness. Historically, considering social movements as sudden or reactionary has been a tool to delegitimize and invalidate organized efforts for change. Calling events “rebellions,” “revolts,” or “uprisings” were commonplace “to highlight their spontaneous and unpredictable nature.”<sup>105</sup> However, “by treating the activities of collective actors as tactics and strategy, the analyst could examine movements and countermovements as engaged in a rational game to achieve specific interests.”<sup>106</sup> Sociologist Alberto Melucci studied contemporary movements examining that social movements emerging in the latter half of the 20th century and beyond have acted in our society in a way they never have before: they are transforming cultural discourses. According to Melucci, “...collective action is shifting more and more from the ‘political’ form, which was common to traditional opposition movements in Western societies, to a cultural ground.”<sup>107</sup>

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<sup>105</sup> Enrique Laraña, Hank Johnston, and Joseph R. Gusfield. *New Social Movements: from Ideology to Identity* / Edited by Enrique Laraña, Hank Johnston, and Joseph R. Gusfield. Philadelphia: Temple University Press, 1994, 212.

<sup>106</sup> Laraña, et al., 5.

<sup>107</sup> Alberto Melucci. “The Symbolic Challenge of Contemporary Movements.” *Social Research* 52, no. 4 (1985): 789.

The media as a whole has been a rich site of this democratic activism, leading to the change of cultural scripts and narratives – both literally and figuratively. Social movement theorists have found that, since the mid-90s, “we have seen the re-emergence of media activism – organized ‘grassroots’ efforts directed to creating or influencing media practices and strategies, whether as a primary objective or as a by-product of other campaigns.”<sup>108</sup> A sphere where one can see this conscious call for change in Reality Television. Due to the industry’s claim of being a reflection of the society it inhabits and intends to serve as a mirror, Reality Television has often needed to keep up with social movements. This means for “democratic” change-making has channeled momentum from social movements and bolstered change in plot narrative, casting, hiring practices, along with other facets of production. Hence, when it comes to the alleged democratism of the genre, there are two intersecting but distinct points: 1. audience participation in Reality Television shows should not be confused with democratic participation, and 2. the inclusion of ordinary people on television should not be seen as an opening up of media to the public.

*The Bachelor* franchise became a prime case where a social movement inspired a fanbase-led push for change. In June of 2020, as a response to the efforts of the Black Lives Matter (BLM) movement, a group of viewers came together to work for a cause that would be known as The Bachelor Diversity Campaign. This grassroots activism was inspired by the fact that the producers and networks responsible for the production of forty seasons of the show—ABC and Warner Bros – had only cast one black lead in over nineteen years of the franchises’ existence. That lead was *The Bachelorette* Season 13’s Rachel Lindsay, an attorney-turned-media personality who is an outspoken member of Bachelor Nation. The campaign came into fruition

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<sup>108</sup>William K. Carroll and Robert A Hackett. “Democratic Media Activism through the Lens of Social Movement Theory.” *Media, Culture & Society* 28, no. 1 (2006): 89.

during a pivotal moment in U.S. history when numerous American institutions were re-evaluating their practices surrounding racism and anti-racism. Starting its work on the social media platforms of Twitter and Instagram, the movement emphasized that simply not being racist was not enough. They believed that active anti-racism— or “conscious efforts and deliberate actions which are intended to provide equal opportunities for all people on both an individual and a systemic level,” was imperative.<sup>109</sup> A non-performative and non-temporary commitment to anti-racism meant making sure those intentions came into fruition in the “everyday pursuits and familiar spaces”<sup>110</sup> of the American populace. One such familiar space was the media one consumes, and *The Bachelor* was a very visible form of media. The campaign found it to be the “ideal moment” and that “to not respond at this moment would be remiss.”<sup>111</sup>

The Bachelor Diversity Campaign’s strategizing was bottom-up; *by* the fans, and *for* the fans, cast, *and* crew. It was led by “fans devoting their time and energy to an existing cause we all believe in.”<sup>112</sup> Spearheading this effort is Brett Vergara, a Research Program Manager for Instagram and a prominent figure in Bachelor Nation Twitter— or the live-tweeting force narrating the show’s happenings right as they occur. Vergara, and his background in communications, are a part of a population of viewers that may not be factored into the rating conversation. However, as he shared while a guest on the podcast *Game of Roses*, he is a part of an ever-present and growing population of Reality Television: the young, critical viewer.<sup>113</sup> This is the diverse fanbase proclaimed to have the “shared mission to increase BIPOC representation within the Bachelor franchise,” as they have “become disillusioned by the lack of representation

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<sup>109</sup>“National Museum of African American History & Culture,” Being Antiracist | National Museum of African American History and Culture, accessed November 14, 2021, <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist>.

<sup>110</sup>“About Us,” Bachelor Diversity Campaign, accessed November 14, 2021, <https://bachdiversity.com/about-us-1>.

<sup>111</sup>“Frequently Asked Questions,” Bachelor Diversity Campaign, accessed November 14, 2021, <https://bachdiversity.com/faq-1>.

<sup>112</sup>“Home,” Bachelor Diversity Campaign, accessed November 14, 2021, <https://bachdiversity.com/>.

<sup>113</sup>Chad Kultgen and Lizzy Pace, interview with Brett Vergara, *Game of Roses*, podcast audio, April, 2021.

of Black, Indigenous, People of Color ('BIPOC'), particularly in lead roles and other featured storylines."<sup>114</sup> In the campaign's platform, it is made very clear that these facts were not only unacceptable but that it was the responsibility of the creators of such a popular and influential television series to highlight BIPOC relationships and narratives constructed or not. Dubrofsky shares, "Rarely are there men of color on *The Bachelorette*, but sometimes one or two appear on a given season. The starring men have all been white."<sup>115</sup> In other words, the franchise and its representatives should mirror and honor the U.S.'s racial diversity both on-screen and behind the scenes. The statistic of one out of forty leads being a person of color was not a number that paralleled the 13.4% population of Black and African Americans in the United States.<sup>116</sup>

The fans in support of the campaign understood themselves to influence viewers in calling for greater racial diversity in the franchise's programming. This phenomenon harkens to the notion of the perceived democratization of Reality Television. As Andrejevic argues, "It is not just the fact that the producers have relinquished some measure of control but that the audience has gained it... that including [mass culture's] participation might help cultural products reclaim an element of authenticity."<sup>117</sup> Here, Andrejevic responds optimistically to the concept that collective input in the production of culture can reclaim the alleged authenticity that Reality Television as an industry purports. Disrupting the top-down control within the Reality Television industry would mean holding producers and network executives accountable, asking for "demonstrable action to address the inequalities in casting, screen time, and employment of minority groups" and demanding the use of such a pervasive platform to be more "thoughtful, race-conscious, and socially responsible."<sup>118</sup> An attempt at such reclamation is made clear by the

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<sup>114</sup>"Frequently Asked Questions," Bachelor Diversity Campaign.

<sup>115</sup>Dubrofsky, "The Bachelorette's Postfeminist Therapy," 195.

<sup>116</sup>"U.S. Census Bureau Quickfacts: United States," accessed November 14, 2021, <https://www.census.gov/quickfacts/US>.

<sup>117</sup>Andrejevic, Mark. *Reality TV: the Work of Being Watched*, 12-13.

<sup>118</sup>"About Us," Bachelor Diversity Campaign.

campaign expressing, “we hope to mold the show we love into one we can all unequivocally support.”<sup>119</sup> Thus, *The Bachelor* franchise viewers effectively tried to reclaim ownership of the show’s reality and authenticity by participating in The Bachelor Diversity Campaign.

The campaign created a petition on Change.org entitled “A Campaign For Anti-Racism in the Bachelor Franchise,” which has gained traction on social media platforms. To combat racism in the production of *The Bachelor* and affiliated productions, the petition stipulated:

- “1. Cast a Black bachelor as Season 25 lead.
2. Cast BIPOC for at least 35% of contestants each season hereafter.
3. Give equitable screen time to BIPOC contestants.
4. Actively support BIPOC cast, including providing mental health resources specifically geared to helping them navigate the Bachelor franchise experience as BIPOC.
5. Equitably compensate and hire more BIPOC employees in all parts of production, casting, and filming.
6. Publicly pledge to vet contestants more thoroughly to ensure those who have promoted prejudice (e.g., ableism, racism, sexism, white supremacy, religious intolerance, homophobia, transphobia) are not cast.
7. Hire a BIPOC diversity consultant to be involved in all parts of production, casting, and filming.
8. Condemn racist abuse directed towards BIPOC contestants and announce a “zero tolerance” policy towards racism on-air.
9. Commit to providing resources to help viewers learn more about BIPOC stories and organizations supporting BIPOC causes.
10. Feature BIPOC contestants, including their experiences as BIPOC, on the show as storylines.
11. Ensure that indigenous cultures are not exploited and their portrayal does not perpetuate harmful stereotypes.
12. Pledge to donate to a cause that will help combat racism.
13. Issue a public statement apologizing for enabling systemic racism within the franchise and offer a clear plan for demonstrable anti-racism efforts moving forward.”<sup>120</sup>

Over 165,000 individuals, including some of the most prominent names in Bachelor Nation, signed the petition and left comments in support of the movement with their signatures. Promptly and strategically following this success of The Bachelor Diversity Campaign, Matt James, a former football player, and current real estate broker was cast as *The Bachelor* franchise’s first Black bachelor. However, the franchise would grossly underserve the gravity of the season by ignoring multiple stipulations of the Campaign’s petition.

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<sup>119</sup>“Frequently Asked Questions,” Bachelor Diversity Campaign.

<sup>120</sup>Bachelor Diversity Campaign, “A Campaign For Anti-Racism in the Bachelor Franchise,” Change.org, 2020, <https://www.change.org/p/abc-a-campaign-for-anti-racism-in-the-bachelor-franchise>.

## Unpacking “Chris Harrison & Rachel Lindsay Talk ‘Bachelor’ Contestant Rachael Kirkconnell”

At the beginning of each season of the show, a promo is featured in the opening. A string of key moments from the season ahead is accompanied by narration. In the end, a narrator states the same phrase that this season would be the most dramatic yet. That narrator is Chris Harrison, the host and executive producer of *The Bachelor* franchise from 2002 to 2021 whose face and name became synonymous with the show. *The Bachelor* Franchise is no stranger to scandal, and it often produces its controversy to remain prominent in the zeitgeist. However, I will argue that Matt James’s Season 25 is the climax of not only the show’s reckoning with its racism but the people and practices of the entire franchise leading it to the dysfunction it has encountered today.

Although it was traditional practice to choose a male lead that was a participant featured in a previous *Bachelorette* season, James was a rookie to the franchise and friend to a former popular participant by the name of Tyler Cameron in Hannah Brown’s Season 15 of *The Bachelorette*. Very rarely had production deviated from their lead-picking practices, as producers brought back familiar participants in order “to capitalize off the goodwill they already have with viewers...”<sup>121</sup> Nevertheless, James was granted the lead. Some speculate production has made this choice due to his connections to the two most Instagram-followed members of Bachelor Nation. Others say it was his southern upbringing, White mother, or football playing past that made him a safe choice for the franchise’s brand. Nevertheless, the unconventional casting of James as a leader would end up serving as an indicator of the producers’ and ABC’s failure to create an appropriate environment and narrative for biracial lead Matt James.

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<sup>121</sup>Huff, 116.

*The Premiere*

On January 4th, 2021, Season 25 aired its premiere episode. Commencing his season, James exits his limo and meets the host, Chris Harrison, at the base of a red carpet leading up to Nemaocolin Resort in Pennsylvania. After pleasantries, James stops the host. At the point of the show where limo exits would begin for the 25-30 female participants, he asks Harrison if it is okay for him to ask a few questions before they get started.<sup>122</sup> The two abandon the format and enter the Nemaocolin to two chairs set up by the fireside. The audience that just supported The Bachelor Diversity Campaign is hopeful that this heart-to-heart may potentially lead to a conversation about the historical weight of this season or maybe one that will increase the representation of diverse narratives. However, what would follow would be an awkward conversation about race with the host. While it would not be the most controversial moment of the season, it was the catalyst of an overarching theme.

James sat down with Harrison before meeting the participants to express the pressures he felt. Harrison asked leading questions as James replied with his reservations. Rather than the scene having a genuine quality to it, it had the tone of a rehearsed direct examination. He discussed the expectations that came with being biracial; in trying to please both sides of his identity in his decision for a fiancée.<sup>123</sup> James also introduced the walls he had built due to his family's past.<sup>124</sup> In almost every season of the show, the lead and some participants share "walls" that the narrative shows them progressively breaking down via the aforementioned therapeutic nature of the show. In this case, the season establishes that James's "wall" which he must overcome is his fear of vulnerability induced by issues in his relationship with his father. After the episode, the production was criticized for the poor execution of this conversation by its

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<sup>122</sup>*The Bachelor* (ABC, January 4, 2021), 15:45.

<sup>123</sup>*The Bachelor* (ABC, January 4, 2021), 17:50.

<sup>124</sup>*The Bachelor* (ABC, January 4, 2021), 19:00.

audience. Viewers questioned why Matt James, as a Black man, had to explain to Harrison, a white man, what it meant to be Black; that these sentiments could have been expressed directly to the camera or in an intro package.

As the season progressed, even more tangible were the statistics being collected. *Bachelor Data*, a viewer-run data account that states its mission as “Making it easy for everyone to understand the impacts of reality TV on social media,” makes visually digestible and accessible posts on social media to communicate crucial information about the show to the average viewer.<sup>125</sup> Specifically, participant screen time is recorded to convey any important trends. The source collects their data manually and records it after each episode airs.<sup>126</sup> Below are charts created by *Bachelor Data* and posted on February 12, 2021. They convey not only factual numbers but the sentiments of those who were outspoken supporters of The Bachelor Diversity Campaign.

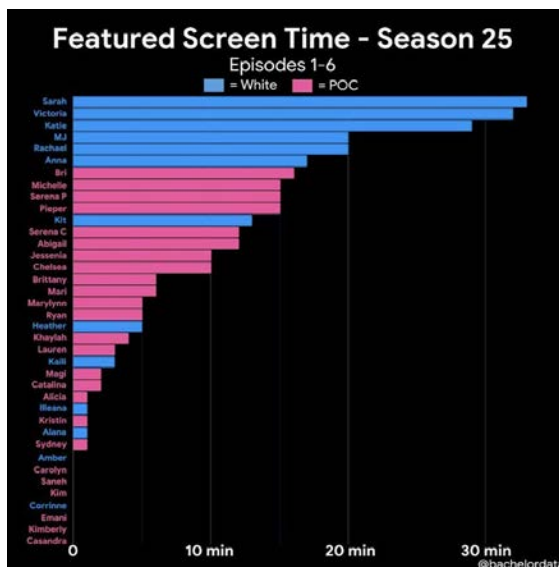


Figure 2. Featured Screen Time - Season 25<sup>127</sup>



Figure 3. Casting vs. Screen Time<sup>128</sup>

<sup>125</sup>“About,” Bachelor Data, accessed December 31, 2021, <https://www.bachelornationdata.com/about>.

<sup>126</sup>“The Data,” Bachelor Data, accessed December 31, 2021, <https://www.bachelornationdata.com/the-data>.

<sup>127</sup>Figure 3. Bachelor Data (@bachelordata). “Featured Screen Time - Season 25.” *Instagram*, February 12, 2021.

<sup>128</sup>Figure 4. Bachelor Data (@bachelordata). “Casting vs. Screen Time.” *Instagram*, February 12, 2021.



In Figure 2, the graphic illustrates featured screen time broken down by participant with the top six high screen time recipients being White participants. As Dubrofsky states, “While women of color appear on the show, they do not thrive.”<sup>129</sup> In Figure 3, the graphic confirms that even though 65% – the majority – of Season 25’s Contestants were people of color, only 46% – the minority – of screen time was being allocated to those identities in Episodes 1-6 of the season. These numbers are emphasized with a statement asserting that executive producers gave the show a visibly diverse cast with no actual visibility in its narratives. Storylines with screen time were being given to White participants, and one such narrative would be a possible breaking point for the franchise.

### *The Controversy*

Early into the season, rumors had begun circulating about Rachael Kirkconnell, a clear front-runner for James among the women in his season. Viewers had found questionable social media activity that may represent prejudiced and insensitive views on her part. Instagram posts emerged with photographs showing a then Georgia College & State University student Rachael Kirkconnell wearing an antebellum-style plantation dress at a Kappa Alpha Order fraternity-hosted Old South plantation-themed party in 2018. The collegiate fraternity who hosted the ball claims their moral compass and spiritual inspiration to be General Robert E. Lee of the Confederacy.<sup>130</sup> Other photos of Kirkconnell showed her posting with the Confederate Flag as well as appropriating cultural dress. Participants commonly undergo a heavy level of scrutiny by the audience. For example, in the past, participants have been taken off the show after viewers found a history of sexual misconduct or a romantic partner they were hiding. This may be an implicit compensation for seemingly the lack of scrutiny in the franchise’s casting process.

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<sup>129</sup>Dubrofsky, “The Bachelor: Whiteness in the Harem,” 42.

<sup>130</sup>“Mission Statement,” Kappa Alpha Order, April 17, 2015, <https://www.kappaalphaorder.org/ka/mission-statement/>.

In response to the rumors surrounding Kirkconnell, Rachel Lindsay— the singular Black lead preceding James— called out the franchise for its history of casting problematic participants and not running better background checks on them to protect their leads and contestants. Lindsay herself fell victim to this phenomenon when, on her season in 2017, contestant Lee Garrett was called out for writing racist tweets that resurfaced after her show’s premiere. Some viewers contend that Garrett was included in the body of participants simply to contribute to this controversy, of course at the expense of Lindsay. The basis of such a claim are quotes like this: Mike Fleiss, the creator of *The Bachelor* franchise, told *Vanity Fair* himself, “I like to take a topic that someone says you can’t put that on TV and then I put it on TV... I want to feel a little bit dangerous, a tiny bit irresponsible probably, and that usually equals controversy, and that’s sort of my stock-in-trade.” Whether intentional or not, the franchise was responsible for the oversight, and the integrity of the efforts put towards the unique season was quickly disintegrating.

### *The Interview*



Figure 4. The interview occurs with Lindsay present in the studio and Harrison tuning in over Zoom as a talking head on the big screen in front of her. As seen in the picture, he is projected on the left, and Lindsay is seated on a table on the right. The viewer of the video sometimes sees Harrison full screen, and other times pans over to see Lindsay and can see her body language.<sup>131</sup>

<sup>131</sup>Figure 4. *Chris Harrison & Rachel Lindsay Talk 'Bachelor' Contestant Rachael Kirkconnell*, YouTube (extratv, 2021), <http://www.youtube.com/watch?v=9hmY1gSAuRk>, 01:02.

On February 9, Chris Harrison appeared on Extra – the syndicated daytime newsmagazine – to recap the show’s previous episode. Above is a screenshot from that video. A few questions into the interview, Rachel Lindsay asked Harrison about his thoughts on Rachel Kirkconnell and the allegations she had been facing. At the time, news surrounding Kirkconnell was still abuzz, as episodes continued to air with no comment from either herself or the show. Harrison answers Lindsay’s question by stating that Kirkconnell deserves “grace and compassion” and that she has been subjected to “this judge, jury, executioner thing.”<sup>132</sup> Harrison continues to say that he “hasn’t heard Rachel speak on this yet” and thus cannot make any assumptions on the matter.<sup>133</sup> It is common industry practice for participants to be asked through their NDAs not to speak on matters over social media, as was most likely the case here for Kirkconnell.

Harrison then brings up the pictures in question, which he refers to as ones from “a sorority party from five years ago.”<sup>134</sup> His choice of words frames the pictures’ contents to be more benign, and this instance in the video begins Harrison’s pattern of distancing the present-day participant Kirkconnell from her past actions. At this point, Lindsay interjects, stating the actual context of the photo, as well as reminding Harrison and the viewers that “it is not a good look.”<sup>135</sup> Harrison then delivers a reply that would continue to be loaded with controversy: “Well, Rachel, is it not a good look in 2018? Or, is it not a good look in 2021? Because there’s a big difference.”<sup>136</sup> The former host is seen raising his brows along with the inflection of his voice. Lindsay’s brows also raise but in surprise as she promptly replies, “It’s

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<sup>132</sup>Ibid. [00:20]

<sup>133</sup>Ibid. [00:35]

<sup>134</sup>Ibid. [00:45]

<sup>135</sup>Ibid. [01:05]

<sup>136</sup>Ibid. [01:10]

not a good look ever because she's celebrating the Old South! If I went to that party, what would I represent?"<sup>137</sup> Lindsay's hand gestures to herself and the inflection of her tone depict the defeat and earnestness in understanding the meaning behind longtime acquaintance Harrison's statement. Harrison attempts to create a huge barrier of time between Kirkconnell's actions from just three years prior. In his remark, Harrison implies that the sociopolitical climate would not have considered Kirkconnell's actions as controversial. For this reason, Lindsay finds it necessary to have to draw a personal comparison for Harrison at her own expense, situating herself in that context. She asks Harrison what her role and identity would be had she attended an Old South party. At that moment, Harrison does not grasp Lindsay's parallel, and states that "I don't know, fifty million people did that in 2018? That was the type of party people went to."<sup>138</sup> Here, Harrison effectively tries to absolve Kirkconnell from any responsibility by citing the prolific nature of Old South parties, whereas the point Lindsay tries to make is that they should not exist in the first place. Harrison even inquires, "Does it make it okay? I don't know Rachel, you tell me!"<sup>139</sup> Harrison's question is effectively rhetorical, as throughout the interview he questions Lindsay and the audience's definition of this scenario along with the racist actions themselves. Harrison continues to speak, and shrugs his shoulders in defeat to say, "The woke police is out there."<sup>140</sup> Woke is a term that is prevalent in the current vernacular as meaning cognizant of social inequalities and justice. It hails from its origins in African American Vernacular in the 1930s and has gained traction in the 2010s. Here, Harrison employs the pejorative term of the word 'woke,' one adopted by social conservatives in recent years. He does so to speak down on the social policing of racist language and actions. Harrison continues by

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<sup>137</sup>Ibid. [01:20]

<sup>138</sup>Ibid. [01:40]

<sup>139</sup>Ibid. [02:10]

<sup>140</sup>Ibid. [04:40]

asking in an incredulous tone, “Who is Rachel Lindsay? ... Who are you? Who the hell are you? Who are you to demand this?”<sup>141</sup> In making an argument about giving Kirkconnell the time to speak out on the matter in her terms, Harrison overlooks a crucial fact: Lindsay is the very racial identity Kirkconnell is hurting by posting such a picture and remaining silent on the matter. Harrison continues to demonstrate how he does not comprehend the gravity of the content of the controversy, especially about the person he is speaking to.

For the next five minutes of the video, Harrison and Lindsay continue the conversation with Harrison often speaking over Lindsay and often using the terminology “poor girl” about Kirkconnell. Lindsay brings up James and how he would feel about entering a romantic relationship with Kirkconnell knowing these circumstances to be true. Harrison then brings back the conversation to creating that time barrier once again, by claiming that the schoolyard games he played in his youth in the 70s were also questionable but situated in a different time, leaving the audience begging the question of what games he is referring to. At this point, an often very well collected and well media-trained Harrison seems to unravel as he states, “I don’t know, I’m not running for King of the United States of America to force my decree on everybody.”<sup>142</sup> Harrison then takes a brief pause, and expresses that he knows viewers of this interview “depending on how it’s edited and how it’s cut” would formulate their perception of his words.<sup>143</sup> Harrison shows an awareness of the scrutiny he will be under. Harrison also displays his awareness of “the edit” and how it can warp reality. By doing so, he reveals to the viewers that he is aware of this tool and the powers of its implementation. By invoking the potentiality of an “edit,” he utilizes this fact as a defense to deflect from true responsibility for his words and actions in the interview. “The edit” is a tool Harrison wields for his responsibility to be averted.

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<sup>141</sup>Ibid. [05:50]

<sup>142</sup>Ibid. [10:55]

<sup>143</sup>Ibid. [11:10]

## The Silenced Aftermath

The critical examination of *The Bachelor* Season 25, one that does not reduce Matt James and Rachel Lindsay's experience and simply tabloid gossip or another instance of cancel culture, provides great insight about not only accountability but codified silence. This study is an optimal example of a case that ends with the use of Non-Disclosure Agreements to obfuscate the very practices that led to such a negative impact on participants and the audience. This section will show the NDA served as a gag at the end of these events and how, even over a year later, the franchise seemed to not fully recover.

After Lindsay's interview with Harrison circulated on social media platforms and YouTube, there was an immense amount of backlash from fans. On February 10, Harrison released a formal apology on Instagram, a post that has since been erased on his feed. The day after, Rachael Kirkconnell finally spoke on the controversy she was embroiled in, releasing an official apology on Instagram: "At one point, I didn't recognize how offensive and racist my actions were, but that doesn't excuse them."<sup>144</sup> Her apology was taken relatively well, and viewers wondered if she had spoken on the matter sooner whether the matter would have been less explosive and better handled. Yet, there seemed to be a bigger issue at hand. Had an NDA stopped her from speaking earlier? Had her position as a front-runner rendered production to prioritize the success of the show? And, still, why had Harrison made statements he had? More clarity came with Lindsay's sharing of behind-the-scenes details.

On February 12, Lindsay and her cohost Van Lathan on their podcast "Higher Learning" discussed the interview and Harrison's apology. Lindsay enlightened viewers about the fact that there was no publicist present; the conversation was originally just going to be a recap of the

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<sup>144</sup>Rachael Kirkconnell (@rachaelkirkconnell). *Instagram*, February 11, 2021. <https://www.instagram.com/p/CLK5YDHHQQT/>.

episode. Lindsay stated that she made the subconscious choice to ask about Kirkconnell, after which “...he went off.”<sup>145</sup> Lindsay explained how Harrison spoke over her, wasn’t trying to listen to her, and just wanted to be heard. This was not the first time Harrison pushed his narrative on air. Rachel Dubrofsky cites such an incident in her work, Ali Fedotowsky and *The Bachelor* Season 14’s “Women Tell All” episode. The “Tell All” episode is a crucial one in a season, where all participants have the semi-scripted space to explain, justify, and provide more behind-the-scenes insight into what had been aired on the show thus far. On this 2010 day, Fedotowsky was brought on stage to talk with Harrison about the conflict between love and career. At that moment, Fedotowsky expressed “a sentiment that is counterintuitive in the space of the series;” that love and career can coexist and that if their love was real they would not need the show to facilitate it to its full extent.<sup>146</sup> At that moment, Harrison promptly interjects, insisting on a bottom line that the franchise and producers need to emphasize. Harrison “makes clear the parameters for understanding... refusing Fedotowsky’s framing of the situation in any [other] way...”<sup>147</sup> Dubrofsky explains that to maintain control over the narrative, Harrison and the production “effectively pathologize” Fedotowsky’s priorities and “the implication is that Chris has made her realize she has a problem.”<sup>148</sup> Harrison takes command over the narrative and reverses it to center it within the series rather than Fedotowsky’s reality. A parallel situation occurs here. While Harrison is sometimes the harbinger of the controversies, it is the production’s priorities and culture that shape these events and silence subsequent harm.

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<sup>145</sup>Rachel Lindsay and Van Lathan. Higher Learning with Van Lathan and Rachel Lindsay, podcast audio, February 2021, 07:12.

<sup>146</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 200.

<sup>147</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 200.

<sup>148</sup>Dubrofsky, “The Bachelorette’s Postfeminist Therapy,” 200.

*Chris Harrison Exits*

On February 13th, Harrison announced on his Instagram that he would be taking time off from being the host of the franchise. Harrison released a statement furthering his apology and acknowledging various facets of his wrongdoing. He later revealed that during his period of leave, he would not be attending James's season's "After the Final Rose" episode – a special that follows the final episode of every season to debrief what was just watched by the involved participants themselves. Lindsay reacted to Harrison's exit with surprise, emphasizing that it was never her intention to remove Harrison but rather to make sure the conversation was heard to shed light on the opinions that were held by executive producers on the show. Lindsay, like most fans, wondered what direction the franchise would head with Harrison on indefinite leave.

Meanwhile, Harrison was still the host of the pre-recorded show. Audiences felt uncomfortable as the show's narrative progressed unbeknownst to the scandals it would insight. James and Rachel Kirkonell's relationship flourished on-screen, becoming tough for viewers to root for. Additionally, Harrison was continuing to facilitate James's journey in the series, serving as a complicated dynamic for viewers knowing the contemporary events. One such controversial scene aired on March 7, when showrunners decided to reunite James with his estranged father, Manny James. As discussed in Chapter Three of this paper, reality television's unscriptedness is uncertain, and the extent to which there is authenticity in the narratives of the participants is difficult to ascertain. Such uncertainty is presented when James begins the episode claiming he cannot continue his journey with the four remaining women or overcome discomfort surrounding commitment without first confronting his father about their waning relationship.<sup>149</sup> In one of the rawest and most uncomfortable moments in the series, the father and son exchange a lengthy dialogue. *The Bachelor's* narratives had often emphasized the importance of witnessing a

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<sup>149</sup>*The Bachelor* (ABC, March 8, 2021), 06:00.



positive family dynamic to having successful relationships. Manny James appears to be blindsided by the topic of his absence, saying he did not come to talk about their father-son relationship but to celebrate Matt's success.<sup>150</sup> The audience condemned the airing of such a personal and vulnerable moment, criticizing producers for capitalizing on the trope of the absent black father. Rachel Lindsay even inquired as to who green-lit televising such a conversation, noting that Matt's father's absence was the only thing the viewer knew about the Black facet of Matt's identity and that this was repeatedly brought up in the narrative of Matt finding love. Matt himself shared his thoughts through a Twitter post expressing, "Tonight's convo with my dad was hard to experience, and it's just as hard to watch all this time later, especially knowing the world is watching with me...I just wanted to say that too often, we see dangerous stereotypes and negative depictions of Black fathers in media... All I hope is that people watch that conversation with nuance, care, and also an understanding that there are real systemic issues at play."<sup>151</sup> Whether knowingly or unknowingly, the producers exploited a harmful stereotype at Matt's expense just to emphasize their narratives surrounding family and relationships. Just like Fedetowsky's experience, along with that of numerous participants before, the franchise was in pursuit of unabashedly pushing their "bottom line." *The Bachelor* was not an explicitly racist show, which is what it believed it needed to address. The Bachelor Diversity Campaign and viewers called for anti-racism, and active steps against perpetuating harmful stereotypes. Their failure to deliver drove home just how difficult it is for the franchise to understand that distinction.

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<sup>150</sup>*The Bachelor* (ABC, March 8, 2021), 10:35.

<sup>151</sup>Matt James (@mattjames919). *Twitter*, March 8, 2021.  
<https://twitter.com/mattjames919/status/1369098773645852672>.

*An Interim Host*

It started to become clear the big shoes that needed to be filled, with an imminent season finale and sudden loss of a host. Harrison had become the face and voice of the franchise for its nineteen years of existence. The role had come to be defined by Harrison. Social media comments made clear a nation divided; some viewers refused to watch any shows the franchise would produce *with* Harrison as host and others refused to watch if Harrison did *not* host. Additionally, debates were rampant on who a substitute host should be. Would it be a former participant or lead? Would it be a well-known host already within the ABC network? Was racial identity crucial to consider to best navigate the important conversations that needed to be had? Be it the recency effect or the fact that Lindsay checked all those boxes, her name circulated as an optimal choice. However, throughout the events, the backlash was not just relegated to Harrison's statements, but also to Lindsay herself. Lindsay was forced to deactivate her Instagram account on February 26 due to online racism and harassment.

A day after, ABC announced that Emmanuel Acho would step in as interim host for the “After the Final Rose” special. Acho is a Nigerian-American, former NFL linebacker who currently works as a sports analyst and is the author of “Uncomfortable Conversations With A Black Man.” Viewers across the aisle were surprised about the choice, as the average audience was not familiar with Acho. However, what stunned viewers more was his unique success as a host of the special. A quarter of the way into the special, Acho has the chance to sit one-on-one with James. To begin the interview, Acho states that “a conversation between two Black men will be unique based on [their] life experiences.”<sup>152</sup> Following this, Acho asks the question, “How much pressure was it being the first Black bachelor?”<sup>153</sup> With simplicity, Acho delivers a

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<sup>152</sup>*The Bachelor* (ABC, March 15, 2021), 13:18.

<sup>153</sup>*Ibid.* [13:25]

poignant message. Up until that point, James had not had the opportunity to speak about his experience with an individual who can accurately represent his identity and lived experiences. At that moment, the viewer sees relief spread across James's face as he explains his experience on the show. He expresses, "As a Black person, there's an extra level of scrutiny when you're the first of something and you wanna make sure you're on your best behavior..."<sup>154</sup> James adds that, "...any other lead would be asked one thing: to find love... the position I stepped into was to take on the weight of everything going on in the country"<sup>155</sup> At this moment, James articulates his unique role in the show and an understanding of the exploitation of his racial identity. The one-on-one segment continues to delve into what it may mean for a Black man to shoulder the pressure of representing Blackness as a whole. Fox explains how "White, cisgender, heterosexual men do not have to performatively validate their whiteness and heterosexuality in the same manner as a gay player or contestant of color because their pigment and sexual inclinations are often framed as the absence of race and sexuality,"<sup>156</sup> In essence, fans of reality television never actively or subconsciously identify White participants as "good" or "bad" representatives of their identities in the same way people of color are treated as emblematic of their identities. It is not clear how much of Echo's hosting was scripted *for* him or *by* him, but what is clear is that Harrison *had* and *would* have failed these uncomfortable conversations proving that representation on set matters to achieve representation on screen. It is not necessarily that Harrison would be unbecoming of the role as host because he was not a person of color. Rather, due to his identity, he would never fully be able to communicate the nuances and lived experience of the lead he was representing.

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<sup>154</sup>Ibid. [13:44]

<sup>155</sup>Ibid. [14:12]

<sup>156</sup>Fox, 97.

Although Acho's hosting sparked a conversation about whether that would mean a permanent role for him, on March 12 the network announced that former Bachelorette leads Tayshia Adams and Kaitlyn Bristowe would step in to host *The Bachelorette* in its upcoming season. To this day, social media comment sections have been forums that parallel dialogues surrounding American socio-politics. Hosts are berated with online harassment, as racism and sexism are prolific. Viewers have scrutinized the hosts' appearances and have claimed the franchise needs a male to host. In the season following Matt James's, ratings plummeted and have not been able to recover.

In the same month, Harrison hired Bryan Freedman as his attorney.<sup>157</sup> Freedman negotiated a \$10 million payout from the network to Harrison.<sup>158</sup> Harrison confirmed this settlement himself just hours after *The Bachelorette*'s Season 17 premiere on June 7 over social media. The press was abuzz with the news that Harrison's gag covered nineteen years of behind-the-scenes secrets and misconduct. Official trade publications reported that he had reached a legal agreement to depart the franchise with a "public statement of an amicable parting-of-ways."<sup>159</sup> Tabloid magazines were quick to pick up on the fact that a lack of information surely meant an "iron-clad" Non-Disclosure Agreement was involved. There was much publicity and speculation on the settlement and no publicity on any details. Yet again, facts about a franchise and its conduct were obfuscated, no positive changes occurred, participants were and continue to be exploited, and accountability is not executed.

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<sup>157</sup>Ashley Cullins and Jackie Strause, "How Chris Harrison Was 'Iced Out' of the 'Bachelor' Franchise," *The Hollywood Reporter*, June 16, 2021, <https://www.hollywoodreporter.com/tv/tv-news/chris-harrison-bachelor-bachelorette-franchise-exit-1234968527/>.

<sup>158</sup>Cullins & Strause.

<sup>159</sup>Elizabeth Wagmeister, "Inside Chris Harrison's Shocking Downfall as 'The Bachelor' Host — and a \$9 Million Payout," *Variety*, June 18, 2021, <https://variety.com/2021/tv/news/chris-harrison-bachelor-exit-payout-1235000029/>.

## Conclusion

My thesis dealt with the interactions and tensions between four different actors: Reality Television, Non-Disclosure Agreements, the participant, and the audience. I introduced this thesis as an inquiry into the often academically overlooked yet culturally prevalent Reality Television industry and its intersection with the Non-Disclosure Agreement. I posed numerous questions which developed the branching facets of my research. I sought the societal impacts of the synthesis between the television genre and legal documents. Ultimately, my research was driven by the following questions: Does the NDA perpetuate racism in the Reality Television industry? What role does the participant play? What role does the audience play?

In the first chapter of my thesis, I aimed to provide an operational definition of Reality Television. I discovered how the genre and its definition have changed over time. I then defined phases of the development of the genre over the last century as well as detected its increasing commercialization. The second chapter looked at the various facets of the Reality Television industry's production that themselves produce and influence culture. I explained how The Script, The Producer, and The Edit are all major contributors to the machinations of the industry and the genre's narratives. I describe how, when an audience is meant to perceive this constructed narrative as a mirror to reality, the scriptedness of these narratives poses problems for what society assumes are accurate depictions of ordinary people and their lives. I then discussed the illusory democratism of the genre and distinguished between participation and interactivity. Next, I found the commodification of surveillance and how it is a necessary but intrusive facet of the industry embraced by producers, participants, and the audience alike. I then went on to describe how identity manifests itself in the industry and how the harmful practices of tokenization and misrepresentation all begin in the casting process. Finally, I explain the

profitability and cheap production of the genre; why reality formats are so heavily embraced by networks. I assert that all of this combined is facilitated through the Exploitative Bargain— a term coined by Andrew Ross to explain the bargain a participant makes to pay a high personal price for a small chance at fame. I discovered that all of these concepts are key players in the societal impact of Reality Television and have been running rampant and often unchecked. Due to the labor practices, it fosters behind the screen and its prominence in popular culture on screen, Reality Television has imparted more societal harm than good.

In Chapter Three, I introduced the very legal tool that facilitates these industry malpractices: the Non-Disclosure Agreement. I explained how the seemingly benign paperwork was incorporated into the industry and went on to codify this silence. Finally, in the fourth chapter, I described a case study where all these concepts come into play. I delved into Season 25 of *The Bachelor*, a season that began with a viewer-led campaign and evolved into the fall of a franchise. I illustrated the experience of lead Matt James, the controversy of his front-runner Rachael Kirkconnell, and the costly mistake of Chris Harrison in his conversation with Rachel Lindsay. I closely analyzed an interview with Harrison and Lindsay where numerous topics explored in Chapters Two and Three are visualized. All of these findings led me to my argument: The NDA is a legal document that codifies silence in the Reality Television industry. This not only allows for racism to be scripted into the genre but also societal norms. I hope that this work will contribute to scholarly analysis of how labor practices within widely consumed forms of media can enable cultural systems and normative ideas of racism and sexism. Nevertheless, Reality Television will continue to be a highly successful genre. So, how can we be more mindful consumers going forward?

To be complicit is to be involved with another party in an act of wrongdoing. Like the words complementary and accomplice, the root inherently insinuates a level of collaboration; working in tandem for that final result of wrongdoing. Reality Television cannot exist without its audience. Without a society to mirror reality, there cannot be Reality Television narratives. Without an audience, interactivity would be non-existent. Without viewership, surveillance would be for nothing. So, when watching the narratives Reality Television perpetuates and when passively absorbing such cultural goods, we can find ourselves being complicit with the industry. However, if consuming media is often to be done mindlessly and for entertainment, are we truly complicit? Or, are we victims? Hill argues, “Research on reality television casting and performance highlights how audiences are caught in a circuit of production and consumption in which shows reflect what audiences want to see.”<sup>160</sup> With our viewership, we pay the producers. Whether we like it or not, we are supporting the industry by showing that we continue to tune in. We aid and abet an industry whose founding basis is attention capital. Whether willingly or unwillingly, Reality Television viewers today are complicit in the process of silence and capitalizing off of others to their ultimate – in the least – discomfort.

And, what does complicity say about us? Do Reality Television programs directly reflect our society and the morals of its viewers? In 2014, Graeme Turner said this question was hard to answer. Scholarly discourse often talks about how, if we are inclined to watch shows depicting humiliation or embarrassment and if we are okay with seeing classism, racism, and sexism, then it must reflect on the individual. Any sphere analyzing media tends to make the blame fall on young individuals especially, saying that when young people enjoy a certain type of media, they may emulate those behaviors as they will see them as desirable behaviors in the real world. To that, Turner said that entering such a territory “...pushes us into the murky territory of

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<sup>160</sup>Hill, 127.

media-effects research and moralizing censorship...” and that “The impact that the cultural identities represented on television have on the world outside television is difficult (maybe impossible) to assess...”<sup>161</sup> In the case study of Matt James, Chris Harrison, and Rachel Lindsay, we saw how a Reality Television show had effects realized both on and off-screen. We also saw how audiences from across the nation reacted, and how the true effect of wrongdoing could be silenced for a certain amount of money. Studying media effects on society is not necessarily moralizing censorship. In this case, it showed us how legalized censorship can legalize wrong.

The #MeToo movement called legal scholars to propose mitigation to the excessive use of Non-Disclosure Agreements in the entertainment industry. Prasad argues, “...that non-disclosure agreements in cases of sexual assault and sexual harassment should be heavily regulated, both by using content-neutral checks on the enforcement of these pernicious contracts and through legislative action that holds the abusers and their lawyers accountable.”<sup>162</sup> Alternately, Rachel S. Spooner concludes her article with a balanced approach that protects the strong ethical reason to protect an accuser’s privacy. She asserts, “To balance the competing priorities, the best approach would be federal legislation that: 1) limits (but not a total ban on) the use of NDAs related to sexual harassment; 2) requires notification to all employees of their rights under the NDA laws’ and 3) imposes public reporting requirements for employers. This balanced approach will stop companies from using contract law as a silencing tool in sexual harassment cases and empower accusers through knowledge of their rights.”<sup>163</sup> In the future, action can be taken to increase accessibility and transparency in the Non-Disclosure Agreement process to legislate what they should and should not be used for. Networks would not be asked to disclose confidential information or content before it aired. Rather, they should make public the

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<sup>161</sup>Turner, 317.

<sup>162</sup>Prasad, 2507.

<sup>163</sup>Spooner, 378.



categories of information they wished to maintain secret. The public would most likely see data reflecting the contents of this thesis. Future scholarship can explore what exactly a balanced approach can look like for the Reality Television industry.

Publicly accessible information and transparency surrounding the practices of the Reality Television industry are ultimately meant to inform a more responsible and educated viewership. Even the most critical Reality Television viewers are often left to their own devices in coming to conclusions about how problematic the genre's narratives and impact can be. However, by making information more public, viewers can be more responsible about what media they consume and know how that media can inform the narratives of the real world. At the end of the day, scholarship surrounding this issue aims to work towards the de-scripting of cultural scripts that purportedly unscripted media has on cultural norms.

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