

## What did Depp v Heard teach us? That justice and reality TV are incompatible

*The US defamation trial has shown us how 'transparency' in court translates into a festival of misogyny.*

Asked on CBS about losing Depp v Heard, Amber Heard's lawyer, Elaine Bredehoft, put much of the blame on the courtroom cameras and the brutal atmosphere they generated. "It was like a Roman colosseum." Actually, for the **squeamish**, it was much nicer than that. Those of us watching Depp's lawyer, Camille Vasquez, dismember Heard could claim to be acting in a spirit of sober inquiry and debate, motivated purely by the wish to advance understanding of US legal procedures. For instance, I learned that it's legal in the state of Virginia for cameras to livestream a celebrity witness offering excruciating testimony about sexual abuse, yards from her alleged assailant.

Another lesson: the **arid findings** of two UK courts cannot compete, in a US one, with lashings of Technicolor "Darvo" ("deny, attack, and reverse victim and offender", a common defence tactic in sexual assault and domestic violence **trials**). And another: it does not conflict with the administration of US justice, in particular the principle that people are equal before the law, if a celebrity witness knows millions of viewers are scrutinising her face and body language while opposition experts speculate on the consequences of her alleged personality disorder. (...)

Now, **courtesy of** the intensive Heard-Depp course in judicial fairness, we have a good understanding of how such commitment to total courtroom transparency is likely to translate, once online supporters are engaged, into a surge of woman-hating abuse and memes. Of this, Bredehoft said, the jury in this case must have been aware. "They have weekends, they have families, they have social media," she said. There was also a 10-day break allowing for further absorption of tribal online feeling before jurors returned to a courtroom **besieged** by #justiceforJohnny supporters: "How could they not have been influenced?" Bredehoft was duly pilloried for sour grapes, on social media.

In fact, she'd seen it coming. In February, arguing against live broadcasting, Bredehoft prophesied how existing "anti-Amber networks" would use resulting videos. "What they'll do is take anything that's unfavourable – a look," she said. "They'll take out of context a statement and play it over and over and over and over again." This is precisely what has happened, as if Heard's inconsistencies were not enough.

Depp's lawyers had more to gain from the **harvesting** of such material. "Mr Depp believes in transparency," his lawyer said. The judge, Penney Azcarate, whose sole decision it was to livestream or not, concluded that the public did need more, on this occasion, than old school reporting and illustrations: "I don't see any good cause not to do it." Maybe the resulting festival of misogyny would not have been predictable to any judge unfamiliar with social media, nor with the tendencies of the manosphere. It's harder to understand why a judge would not understand the specific risks of live broadcasting a case involving allegations of sexual violence, along with its potentially inhibiting impact on future witnesses. (...)

With the help of Heard, who says she is unable to pay the millions she owes in damages, Court TV doubled its daytime ratings. UK viewers discovered a new and cheaper alternative to Netflix. When British broadcasters last agitated for televised courtrooms, it was on the then plausible basis that this innovation – as well as providing cheap content – would educate viewers and improve openness. But **presciently** a spokesman for Victim Support argued that, while the justice system needed to be more transparent, "this does not mean that court cases should become a new form of reality TV".

Even if the transformation of one celebrity defamation trial, via live streaming, into the sustained, one-sided demonising of its female participant does not amount to a case for restriction, Depp v Heard casts serious doubt on broadcasters' claims about enhanced confidence and transparency. How is justice served by a courtroom becoming complicit with the values of mass entertainment? If anything, the live-streaming has added to uncertainty about the relative importance of legal argument as opposed to the popularity of the combatants.

As for fairness, is it fair to force civilians, even actor-civilians, to perform for justice? Either way, what a **boon** for her adversaries that Amber Heard never got the hang of fake crying.

Catherine Bennett, an Observer columnist, *The Guardian*, June 05, 2022

**squeamish** : easily nauseated, disgusted

**arid findings** : constatacion

**trials** : procès

**courtesy of** : thanks to

**besieged** : assiégé

**harvesting** : culture

**presciently** : now

**boon** : favor