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## E.T. Phone Home: Can Hollywood's Big Break Include Fixing Environmental Carnage and Human Rights Violations from Co-Productions

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# **E.T. PHONE HOME: CAN HOLLYWOOD’S BIG BREAK INCLUDE FIXING ENVIRONMENTAL CARNAGE AND HUMAN RIGHTS VIOLATIONS FROM CO-PRODUCTIONS?**

*Haley N. Carson\**

With the continuous rise of globalization and the interconnectivity of nations, co-productions are becoming the new “hit” for movies and shows. When two or more foreign nations come together for entertainment purposes, co-productions are formed. How do these nations join forces for “movie magic?” Big brother film commissions, such as the Association of Film Commissioners International and the European Convention on Cinematographic Co-Production, aid in the facilitation of co-productions.

While consumers are unaware of the details and fine-print behind these co-productions, watchers might be surprised to learn that more than one-third of Hollywood’s productions are being produced abroad. Although these co-productions help create authentic and eye-popping storytelling, they come at a non-economic cost. Unfortunately, countries involved in these co-productions are committing environmental and human rights violations.

As co-productions become more bountiful, environmental harm comes in the wake of foreign co-productions. Countries such as Iceland, Morocco, and Thailand (commonly known for their captivating landscapes and nature) are being corroded by co-productions aftermath. As proposed in this note, the curtain has not closed quite yet. With the implantation of a new environmental monitoring position or board within film commissions overseers (such as AFCI and Council of Europe), countries and co-productions can work to form a sustainable and nature-friendly production.

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\* This note is brought to you by my sponsors: my previous entertainment supervisors who taught me the ins and outs of the industry, my current mentors guiding me towards a future career in the industry, my faculty advisor, and my family for hearing me stress about my note. Also, I’d like to thank my notes and comments editors for their thoughts and guidance during this process. Now sit back, relax, and enjoy the feature note.

Another important downfall of co-productions is the human rights violations that are buried beneath the production's glamorous surface. With varying cultures and societal values, co-productions may lend way to perpetuating filming countries' harmful norms. In fact, some countries even force these values and twist Hollywood's hand to film in the desired foreign location. But at what cost should human livelihoods be sidelined? This note scrutinizes some examples of co-productions that looked the other way for their "perfect shot" and exploited natives. To counteract this narrative, this note also proposes a similar integration of a humanitarian overseer(s) in co-productions in quasi-government organizations (such as AFCI). It also proposes the potential for a complete bar on co-producing with countries known to perpetually violate human rights.

With these proposed initiatives in action and co-producers on the same page, only then should the "show go on."

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## I. INTRODUCTION

What if everyone's favorite friendly neighborhood Spider-Man isn't in the neighborhood anymore? In fact, what if he was very "Far From Home?" As of 2019, one-third of U.S. films are filmed abroad; this statistic is significantly higher when compared to the relatively sparse co-productions between Europe and the United States which originated post-World War II.<sup>1</sup> These numbers will continue to rise due to a multitude of factors, specifically, the cost of filming internationally is where Hollywood finds the greatest economic benefit. Due to a joint venture known as "co-productions," foreign countries are welcoming U.S. filmmakers and studios with open arms in hopes of having their countries in the spotlight.

A co-production is considered a collaboration for a film or show that involves two or more production companies.<sup>2</sup> While there can be co-productions that are self-contained in one nation, international co-productions involve two or more countries joining forces to create a film.<sup>3</sup> In order to receive cooperation from foreign governments, most U.S. producers enter into a co-production treaty with their desired foreign co-producer(s).<sup>4</sup> These agreements are also referred to as bi-lateral or multilateral agreements, depending on the amount of countries involved in the production of the film.

As a by-product of globalization, co-productions are becoming increasingly common for audiences to see on their screens. Although there are benefits for all parties involved in co-productions, and for the viewers who seek enchanting storytelling, these theatrical experiences come as a detriment to those (such as wildlife and citizens) who are not the "stars of the show." Environmental wreckage and disregard become the inevitable result; aban-

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1. Stephen Follows, *How Many Countries do Hollywood Movies Shoot in?*, STEPHEN FOLLOWS (May 4, 2020), <https://stephenfollows.com/how-many-countries-do-hollywood-movies-shoot-in/> [<https://perma.cc/E6BG-HBS6>]; see generally THOMAS H. GUBACK, *THE INTERNATIONAL FILM INDUSTRY: WESTERN EUROPE AND AMERICA SINCE 1945*, 92 (1969).

2. David Zannoni, *International Co-Production in the Film Industry*, ZANNONI MEDIA ADVISORS, <https://zannonimedia.com/co-production-film-industry> [<https://perma.cc/GX55-LGFB>].

3. *Id.* (While there are other types of co-productions such as video games, animation projects, and other audio-visual productions, this note will discuss exclusively co-productions regarding film and television shows, with the majority of the focus being on films).

4. *Id.*

doned movie sets, harmful toxins thrown into natural waters, and land destruction are just some of the disasters left behind.<sup>5</sup> Thus, the magic that is brought to life in films or shows is tarnished by the actual filming causing destruction in its wake.

Additionally, there is also a huge concern for the disruption of cultural values and turmoil to citizens of foreign lands where co-productions take place. Most frighteningly, the films portray fantastical storytelling, but mask the human atrocities behind the scenes. Hidden stories of demographic genocide and poverty porn exploit natives to foreign co-production lands.<sup>6</sup>

Thus, the entertainment industry must acknowledge the harm caused by co-productions. The environment cannot wait for its next act. Likewise, citizens whose rights are being grossly violated deserve their own story of redemption. Thus, the film commissions and their respective countries responsible for the co-productions, must form the necessary regulatory roles within the film commissions themselves. Alternatively, these roles should be established in quasi-governmental entities such as the Association of Film Commissioners International or the Council of Europe who already act as proxy delegators between governmental agencies.

Considering the totality of alarming issues occurring in sets abroad, regulatory roles are essential to save foreign environments and citizens alike. However, it's necessary to first review the historical background of emerging co-productions and what incentives drive film and television productions overseas. This Note will then delve into the importance of illuminating the actual environmental harms occurring on foreign sets and will provide a potential solution to this pressing issue. It is equally as important to review examples of how human rights are overlooked and taken advantage of on sets abroad. Another solution is then to address how to monitor the human rights violations on future productions. Thus, with more information on co-productions and the wrongs that occur in the process of making them, the

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5. See Shaya Laughlin, *Claims Pirates of the Caribbean Production Tipping Toxic Waste Into Gold Coast Creek*, THE COURIER MAIL (June 27, 2015), <http://www.couriermail.com.au/news/queensland/claims-pirates-of-the-caribbean-production-tipping-toxic-waste-into-gold-coast-creek/news-story/f779bab0fb9429cdcc55bb93e4212e9a> [https://perma.cc/UA77-4H6W]; Guy Castley, *Eats, shoots and leaves: what the movie industry does to 'location'*, THE CONVERSATION, (Jun. 17, 2015), <https://theconversation.com/eats-shoots-and-leaves-what-the-movie-industry-does-to-location-42417> [https://perma.cc/9ZJD-FMQZ].

6. See Neal Conan, *'Poverty Porn': Education Or Exploitation?*, NPR, (Mar. 5, 2009), <https://www.npr.org/transcripts/101487893> [https://perma.cc/642G-CF59]; see also Marc Perelman, *China is Pursuing 'Demographic Genocide' Against Uighurs, Leading Scholar Says*, FRANCE 24 (July 23, 2020), <https://www.france24.com/en/asia-pacific/20200723-china-is-pursuing-demographic-genocide-against-uighurs-leading-scholar-says> [https://perma.cc/YXJ4-326M].

proposed regulatory roles will help rectify future co-productions before they can go astray.

### *A. In the Land of Far, Far Away: What Are Co-Productions?*

Although Hollywood is still physically located in Los Angeles, California, the lights, camera, and action of over half of major movies and shows are, at least, partially abroad.<sup>7</sup> Due to the mass array of cultures, scenes, and promising talent in foreign nations, there is untapped potential to be captured. Co-productions involve a collaboration between two or more nations and their quasi-government regulating film commissions who aim to make movie magic. Considering the ever-expansive change of hands in governmental agencies and foreign production companies, these agreements usually come into fruition as a treaty sponsored by major producers themselves.<sup>8</sup> Additionally, these agreements are also commonly facilitated by film commissions who aid in securing foreign governmental collaborations and form a contractual agreement.<sup>9</sup>

Notably, there is a limited amount of monitoring bodies for these sorts of co-productions. For example, the Council of Europe focuses on the protection of human rights and is the continent's leading organization regarding this initiative.<sup>10</sup> Specifically, the Council of Europe aims to advocate for freedom of expression and media.<sup>11</sup> Thus, through the Councils' European

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7. Deidre McPhillips, *Countries Where Most U.S. Movies Are Filmed*, U.S. NEWS & WORLD REPORT L.P. (Feb. 24, 2017), <https://www.usnews.com/news/best-countries/slideshows/top-10-countries-where-most-us-movies-are-filmed> [https://perma.cc/72ZF-ST29]; see also Stephen Follows, *Where Are the Top Hollywood Movie Locations?*, STEPHEN FOLLOWS (Feb. 2, 2015), <https://stephenfollows.com/top-hollywood-movie-locations> [https://perma.cc/J9EB-UQNN].

8. *Best Practice in Screen Sector Development*, ASS'N OF FILM COMM'RS INT'L, BEST PRACTICE IN SCREEN SECTOR DEV. 7–11 (2019), <https://static1.squarespace.com/static/5f7708077cf66e15c7de89ee/t/602a5d97da388b185d66d688/1613389210265/AFCI-Best-Practice-Study-2019-09-13-Final-Cover+%282%29.pdf> [https://perma.cc/6VXX-HXEW].

9. *Council of Europe Convention on Cinematographic Co-production (revised) (Rotterdam, 2017)*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/culture-and-heritage/cinematographic-coproduction#:~:text=The%20revised%20Council%20of%20Europe,states%20and%20the%20European%20Community> [https://perma.cc/9R73-QAD2].

10. *The Council of Europe: Guardian of Human Rights*, COUNCIL OF EUROPE 3 (2020), <https://edoc.coe.int/en/an-overview/6206-the-council-of-europe-guardian-of-human-rights.html> [https://perma.cc/2RUN-WSJY].

11. *Id.* at 1, 4.

Convention on Cinematographic Co-Production (“Convention”), European co-productions are more easily created; accordingly, the Convention acts as a vessel for facilitating these agreements.<sup>12</sup> Additionally, there is also the Association of Film Commissioners International (“AFCI”) which is the “only global organization” that facilitates coordination between governmental entities, regional film commissions, and other associated businesses/organizations involved in media productions.<sup>13</sup> Remarkably, members of AFCI expand across six continents with participants from local, regional, and state film commissions.<sup>14</sup> Despite these expansive collaborations occurring between countries, neither the AFCI nor the Convention contain a regulatory committee or group that oversees ethical considerations of productions.

For reference, a film commission is a collective organization that acts as a government liaison by organizing and coordinating cooperation between sovereignties and productions.<sup>15</sup> In other words, foreign film commissioners “matchmake” desiring producers with local, foreign producers to create a perfect matrimony.<sup>16</sup> Particularly, AFCI is a leading connector of foreign commissioners with producers, as they are expanding the production caliber in each state. By acting as a quasi-governmental agency, film commissioners facilitate a more fluid and cohesive co-production between different foreign producers. AFCI assists in connecting prospective film producers to local film commissioners so that they create productions that abide by local, state, and national laws of the jurisdiction they are filming in.<sup>17</sup> To aid in this mission, AFCI has an advisory board that expands across geographic borders

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12. *Council of Europe Convention on Cinematographic Co-production (revised) (Rotterdam, 2017)*, *supra* note 9, at 2.

13. *Best Practice in Screen Sector Development*, *supra* note 8, at i.

14. *Id.*

15. *The Evolution of Film Commission Services*, ASS’N OF FILM COMM’R INT’L, <https://afci.org/about-afci-2/#afci-history> [<https://perma.cc/P25Y-YF97>].

16. Oakley Anderson-Moore, *How to Finance Your Next Film with European Co-Production Funds*, NO FILM SCHOOL (Mar. 14, 2015), <https://nofilmschool.com/2015/03/how-fund-your-next-film-european-co-production-funds> [<https://perma.cc/6DEP-Z6UH>].

17. *See generally About Us*, ASS’N OF FILM COMM’R INT’L, <https://afci.org/about-afci-2/#about-us> [<https://perma.cc/NFM8-UWAB>].



and different continents.<sup>18</sup> Advisors include Vice President of Film & TV Production Planning at Walt Disney Studios, Senior Vice President Government Relations & Regulatory Counsel at Viacom, Vice President of Public Affairs at Warner Bros. Entertainment, and many more film production studios.<sup>19</sup>

Notably, there are other means of creating movies between collaborating countries. While there are structured avenues such as engaging in treaties and bilateral agreements already mentioned, there can also be informal agreements. Informal agreements result in less cooperation between governmental actors and less incentives from foreign countries compared to working with film commissioners or engaging in formal bilateral agreements.<sup>20</sup> For a fully cohesive and holistic ecosystem of film production, producers and foreign governments should aim to work together.

### *B. Cheap Thrills: Why Are U.S. Producers Opting for Co-Productions?*

Notably, globalization, and the growth of international film collectives, lend to a blending of economic benefits and cultural projects. In fact, due to the era of globalization and intercontinental co-dependent economies, the incentives for co-productions in the entertainment industry have soared. Countries are looking to pursue joint ventures to capitalize on international audiences of film and shows.<sup>21</sup> To accomplish this collaborative goal of filmmaking, foreign countries have focused on advertising attractive characteristics to bring other foreign producers (ideally the United States) to film in their country.

Initially, the U.S. tip-toed into foreign waters by collaborating with Canada in making hit shows and films since 1996, with more than 1,500

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18. *The Evolution of Film Commission Services*, *supra* note 15.

19. *Id.*

20. See generally *Best Practice in Screen Sector Development*, *supra* note 8; Bertrand Moullier and Richard Holmes, RIGHTS, CAMERA, ACTION! INTELLECTUAL PROPERTY RIGHTS AND THE FILM-MAKING PROCESS, WIPO (2nd ed. 2007).

21. See generally Doris Baltruschat, *Globalization and International TV and Film Co-productions: In Search of New Narratives*, MEDIA IN TRANSITION 2: GLOBALIZATION AND CONVERGENCE (May 10–12, 2002), <https://cmsw.mit.edu/mit2/Abstracts/DorisBaltruschat.pdf> [<https://perma.cc/26M2-3LXW>].

productions from 1996–2006.<sup>22</sup> Some of these notable classics include shows such as *Supernatural*, *Schitt’s Creek*, *Handmaid’s Tale*, and movies such as *Mean Girls*, *Inception*, *Deadpool*, *The Revenant*, and many more.<sup>23</sup> As of 2020, “19% of films from Canada were co-productions with the USA.”<sup>24</sup> Although the neighbor up North is still heavily utilized for American productions, the U.S. has broadened its horizons for bigger budget films and shows.<sup>25</sup> Now, Hollywood has its eyes set towards the East with many new box office smashes being filmed in Europe, the Middle East, South Korea, and Australia.<sup>26</sup>

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22. Kelly Nestruck, *Set in the US, filmed in Canada, fed up in Hollywood*, THE GUARDIAN (Nov. 1, 2007), <https://www.theguardian.com/film/filmblog/2007/nov/01/kellynestruckthursampic> [https://perma.cc/SP6Z-8837].

23. See Elizabeth Keith, *You Can Actually Visit All The Canadian Places Where ‘Mean Girls’ Was Filmed*, NARCITY MEDIA (Oct. 3, 2018), <http://www.narcity.com/you-can-actually-visit-all-the-canadian-places-where-mean-girls-was-filmed> [https://perma.cc/JP4U-VA7S]; see also *Which of These Movies and TV Shows Were Filmed in Canada*, CANADIAN AFFAIR (Jun. 19, 2018), <http://www.canadianaffair.com/blog/which-movies-and-tv-shows-were-filmed-in-canada/#:~:text=Movie%20Locations%20Tony%20Reeves%2C%20says,and%20Sui-cide%20Squad%2C%20the%20Fifty> [https://perma.cc/YZB7-EU35]; *Filming Location Matching Toronto, Ontario, Canada*, IMDB, <http://www.imdb.com/search/title/?locations=Toronto%2C+Ontario%2C+Canada> [https://perma.cc/3JB4-K8E4].

24. Stephen Follows, *Which countries most commonly team up to create film co-productions?*, STEPHEN FOLLOWS (Apr. 22, 2019), <https://stephenfollows.com/most-frequent-co-producing-nations/> [https://perma.cc/2YLL-QFHC].

25. See generally *supra* note 1.

26. Paul Merrill, *Thor, Elvis and Joe Exotic in Aussiewood: 15 film and TV productions filming in Australia’s pandemic screen boom*, NME (May 28, 2021), [https://www.nme.com/en\\_au/features/film-features/australia-film-tv-production-shoot-locations-coronavirus-pandemic-boom-2950641](https://www.nme.com/en_au/features/film-features/australia-film-tv-production-shoot-locations-coronavirus-pandemic-boom-2950641) [https://perma.cc/FF8S-J2KX]; see also Alice Holtham, *8 Blockbuster Movies Filmed in the Middle East*, CONDÉ NAST TRAVELER (Aug. 17, 2021), <https://www.cntravellerme.com/style-culture/8-blockbuster-movies-filmed-in-the-middle-east> [https://perma.cc/HJ96-C4WX]; Seoho Lee, *South Korea’s Film Rules Need a Reboot*, FOREIGN POL’Y (July 10, 2022), <https://foreignpolicy.com/2022/07/10/south-korea-film-movie-industry-screen-quota-protectionism-free-trade-covid/> [https://perma.cc/4228-QDCD]; Stjepan Hundic, *‘Game of Thrones’ to ‘Spider-Man’: Why Big TV and Film Productions Shoot in Eastern Europe*, THE HOLLYWOOD REPORTER (May 14, 2019), <https://www.hollywoodreporter.com/lists/big-tv-film-productions-shoot-eastern-europe-1210700/> [https://perma.cc/G8ZK-CJ6V].

For example, one of the highest rated shows in history, *Game of Thrones*, was filmed all over the expansive and sprawling greenery of Europe which created the fantastical imagery associated with the show.<sup>27</sup> Of course, *Squid Game*, which took the world by storm in 2021 and became Netflix's most streamed show, was filmed remotely in South Korea with a mostly local, South Korean cast.<sup>28</sup> Smaller countries such as the Czech Republic, Hungary, and St. Tropez are garnering attention for lucrative rebates that range from 20-60% both in foreign taxing and filming costs.<sup>29</sup> Not to be excluded, almost all of 2021's highest grossing movies were produced in foreign countries.<sup>30</sup> As the year came to a close, *Dune* captured many fans' adoration and appreciation of the fictional planet of Arrakis. Although Arrakis may be fictional, the sweltering and life-draining desert was not, as it was really located in Jordan and the United Arab Emirates.<sup>31</sup> The list goes

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27. Geoff Berkshire, *Why TV Production Has Migrated Overseas*, VARIETY (July 31, 2014), <https://variety.com/2014/tv/awards/why-tv-production-has-migrated-overseas-1201272182/> [<https://perma.cc/568M-LFUF>].

28. Alex Sherman, *'Squid Game' Success Shines a Light on How Cheap It Is to Make TV Shows Outside the U.S.*, CNBC (Oct. 16, 2021), <https://www.cnn.com/2021/10/16/netflix-squid-game-success-shines-light-on-international-discounts.html> [<https://perma.cc/2ESW-RM3L>].

29. Hundic, *supra*, note 26; see also Ben Croll, *'Emily in Paris,' 'The Last Duel' Among Recent Productions Aided by French Incentives*, VARIETY (May 10, 2022), <https://variety.com/2022/film/spotlight/france-film-production-incentives-1235262627/> [<https://perma.cc/QMP7-5HSF>].

30. *Domestic Box Office For 2021*, BOX OFFICE MOJO, <https://www.boxofficemojo.com/year/2021/> [<https://perma.cc/83QM-N7MN>]; see also *Eternals: Filming & Production*, IMDB.COM, INC., <https://www.imdb.com/title/tt9032400/locations> [<https://perma.cc/4BSA-UFTN>]; Jenny Desborough, *'No Time to Die' Filming Locations: Where Was the New James Bond Movie Made?*, NEWSWEEK (Sept. 30, 2021), <https://www.newsweek.com/james-bond-no-time-die-filming-locations-1633340> [<https://perma.cc/7FFP-GMF2>]; Ra Moon, *Where Was Fast & Furious 9 Filmed? The House & All the Filming Locations: Montequinto*, ATLASOFWONDERS.COM, <https://www.atlasofwonders.com/2021/06/fast-furious-9-house-filming-locations.html> [<https://perma.cc/TB6T-F4J7>]; Hannah Shaw-Williams, *Black Widow Movie Locations: Where The Marvel Movie Filmed*, SCREEN RANT (July 15, 2021), <https://screenrant.com/black-widow-movie-locations-settings-where-filmed/> [<https://perma.cc/W57Z-48YJ>]; *Shang-Chi and the Legend of the Ten Rings: Filming & Production*, IMDB.COM, <https://www.imdb.com/title/tt9376612/locations> [<https://perma.cc/WP3C-FMDY>].

31. Josh St. Clair, *Here's Where Dune Filmed Its Amazing Desert Scenes*, MEN'S HEALTH (Oct. 26, 2021), <https://www.menshealth.com/entertainment/a38066111/dune-movie-filming-locations/> [<https://perma.cc/GH3Z-YR7S>].

on and on, and the end doesn't look near. Instead, with foreign nations offering enticing incentives for filming in their countries, Hollywood has no reason to return home.

The most appealing and common incentive is financial reductions in the cost of production. Since the late 1900s, movies have extensively ballooned their budgets to compensate for the newest technology advancements in equipment, editing, and more.<sup>32</sup> Additionally, with the significant rise of housing and living expenses, the money spent to accommodate large crews also increased dramatically. Furthermore, filming domestically is very expensive due to high taxes on-site in Los Angeles, New York City, and at the studios themselves.<sup>33</sup> Even with casting of young, unknown talent, the expected budget for productions have still soared. All these factors contribute to the significant expenditures of producing a film and television show. It's clear why producers aim to collaborate with foreign producers to earn rebates and tax breaks on major blockbusters.

While financial incentives are the most notable to producers, authenticity is also impacting filming decisions. Producers seek the perfect location to make their visions come to life. For example, in recent years, Iceland appears to be a frontrunner for American producers. As aforementioned, the country's steep tax incentives draw in producers in addition to the nation's landscape and scenery.<sup>34</sup> With breathtaking views, realistic weather conditions, and natural assets, filmmakers aspire to shoot in such versatile backdrops.<sup>35</sup> In fact, Icelandic Film Commissioner, Einar Tomasson, emphasized

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32. See generally, Eric Buchman, *Why Are Movies More Expensive Than Ever When Tech Makes Them Easier to Make?*, DIGITAL TRENDS MEDIA GROUP (Dec. 10, 2014), <http://www.digitaltrends.com/movies/why-hollywood-movies-are-more-expensive-to-make-than-ever/> [https://perma.cc/A99N-6PWP].

33. See Susan Abram, *Is the Cost of Filming in LA County Too High? Leaders Want to Know*, LOS ANGELES DAILY NEWS (May 2, 2017), <https://www.dailynews.com/2017/05/02/is-the-cost-of-filming-in-la-county-too-high-leaders-want-to-know/> [https://perma.cc/F7Z6-LAPP]; see also Annie McDonough, *Is Hollywood Exploiting New York?*, CITY AND STATE NEW YORK (Oct. 7, 2019), <https://www.cityandstateny.com/politics/2019/10/is-hollywood-exploiting-new-york/176852/> [https://perma.cc/M3JL-FU8C].

34. Richard Verrier & John Horn, *Hollywood is Hot for Iceland*, LOS ANGELES TIMES (Apr. 2, 2014), <https://www.latimes.com/entertainment/envelope/cotown/la-et-ct-on-location-hollywood-iceland-20140402-story.html> [https://perma.cc/4RHQ-3AQ4].

35. *Id.*

the magnificent draw of Iceland stating "...before God created the rest of the world, he was practicing in Iceland."<sup>36</sup>

Therefore, considering both the financial incentives and natural landscapes, television shows and films alike move abroad for authenticity in storytelling. One director stated it was the "was the combined effect of it all," which prompted him to film his War and Peace series in on-site locations of Lithuania.<sup>37</sup> Although this all sounds like a perfect scenario to Hollywood's goals of creating mesmerizing projects that capture the hearts of the world, it does come at significant costs. Unfortunately, productions have many negative impacts in the destinations and foreign countries selected for shooting.

*C. Houston, We Have a Problem: An Overview of Two Major  
Concerns of Environmental Destruction and Human Rights  
Violations from Co-Productions*

First, filmmaking is a highly wasteful process. With countless costume changes, makeup, hair, building sets, production budgets swell - as does the environmental damage. The examples given (e.g., costumes, wigs, and sets) have little reuse besides the shooting of the film and are not easily broken down, refurbished, re-purposed, or redesigned.<sup>38</sup> Since the rise of globalization and foreign filming, new evidence of on-site ecological destruction has occurred.<sup>39</sup> Some of America's blockbuster successes had immense leftover ecosystems and environmental destruction post-production.<sup>40</sup> For example,

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36. *Id.*

37. Nick Holdsworth, *5 Eastern European Countries to Shoot Your Next Film and Save Money*, THE HOLLYWOOD REPORTER (Feb. 14, 2016), <https://www.hollywoodreporter.com/lists/5-eastern-european-countries-shoot-865044/> [<https://perma.cc/G7UX-8GJH>].

38. *See generally The Green Movement in the Costume Department*, CAMA (Oct. 10, 2022), <https://cama.co.uk/costume-recycling-why-is-it-important/> [<https://archive.ph/7MMJI>]; Castley, *supra* note 5.

39. Kyle Raymond Fitzpatrick, *Behind Every Film Production is a Mess of Environmental Wreckage*, VICE (Oct. 15, 2019), <https://www.vice.com/en/article/3kxjvk/behind-every-film-production-is-a-mess-of-environmental-wreckage> [<https://perma.cc/5FGL-X3LL>].

40. Abby McGanney Nolan, *Lights, camera, destruction! The 10 most ecologically-unfriendly films*, THE GUARDIAN (Nov. 21, 2007), <https://www.theguardian.com/film/filmblog/2007/nov/21/lightscameradestruction> [<https://perma.cc/VVK4-3LZS>].

the hit movie, *The Hobbit*, left the set production erected, which attracts tourists, but unfortunately created a dramatic influx of overtourism.<sup>41</sup> While some still view this as a benefit for the country, the remaining sets do little to help with environmental protection post-production.<sup>42</sup> While the UN and EU have made global efforts to combat these environmental issues, there is still progress to be made, specifically in the entertainment industry.

Another contentious discussion involves humanitarian rights in the filmmaking process of co-productions which shines the light on dark humanitarian issues. Impoverished countries are forced to exploit children for money and other nations expose racial discrepancies between citizens of the country.<sup>43</sup> The root of these issues lay at the cultural practices of each foreign sovereignty.<sup>44</sup> Although the Council of Europe, as well as the United Nations, have specific campaigns and plans of action to combat these issues, the film industry must partake in these endeavors.<sup>45</sup>

As such, film commissions, co-productions, and regional governmental entities need to work together to resolve these pressing environmental and human rights issues in the entertainment production process. While there are

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41. Shubhangi Goel, *Blockbuster movies create booms for tourism - and headaches for locals*, CNBC (Aug. 26, 2021), <https://www.cnbc.com/2021/08/26/movie-tourism-films-that-attract-visitors-cause-problems-for-locals.html> [<https://perma.cc/6QCT-X2JQ>].

42. *Id.*

43. See Vicky Xiuzhong Xu et al., *Uyghurs for sale 'Re-education,' forced labour and surveillance beyond Xinjiang*, AUSTRALIAN STRATEGIC POLICY INSTITUTE (Mar. 1, 2020), <https://www.aspi.org.au/report/uyghurs-sale> [<https://perma.cc/4MXK-PF9A>]; see also Conan, *supra* note 6; Benedict Rodgers, *Why moviegoers with a conscience should boycott Mulan*, HONG KONG FREE PRESS (Sep. 12, 2020), <https://hongkongfp.com/2020/09/12/why-moviegoers-with-a-conscience-should-boycott-mulan/> [<https://perma.cc/9UCN-5ZFE>]; see generally Mackenzie Ritter, *Morocco's Film Industry Gets Mixed Reviews*, U.S. NEWS & WORLD REPORT L.P. (Feb. 22, 2017), <https://www.usnews.com/news/best-countries/articles/2017-02-22/moroccos-role-in-the-film-industry-draws-criticism> [<https://perma.cc/638Q-FWDZ>].

44. See generally Harmeet Kaur, *Even in the US, South Asians say caste has proved hard to escape*, CNN (Sept. 8, 2020), <https://www.cnn.com/2020/09/04/us/caste-discrimination-us-trnd/index.html> [<https://perma.cc/L5W7-3H8J>]; “*Break Their Lineage, Break Their Roots*”, HUMAN RIGHTS WATCH (Apr. 19, 2021), <https://www.hrw.org/report/2021/04/19/break-their-lineage-break-their-roots/chinas-crimes-against-humanity-targeting> [<https://perma.cc/NSF7-Q3T4>].

45. See generally *Secretariats and Conventions*, UN ENVIRONMENT PROGRAMME, <https://www.unep.org/about-un-environment/why-does-un-environment-matter/secretariats-and-conventions> [<https://perma.cc/23MH-RHUU>]; *Human Rights and the Environment*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/compass/environment> [<https://perma.cc/QU5F-M7VT>].

multiple plausible solutions to attack these issues, the two following propositions set forth ideas to change the industry. Implementing environmental and humanitarian protections and oversight through specific designated roles in global film commissions must be established for all upcoming international co-productions. It is intended for these solutions to evolve and grow within the industry and become the standard policy for all co-productions. Although escapism is what draws audiences to their favorite movies and television shows, there is no escape from the devastating environmental and humanitarian harms produced by the entertainment industry. Therefore, these propositions must be implemented for a more green and human approach to the stories being watched across the world.

### 1. Don't Make WALL·E Clean Up Our Mess: A Proposed Course of Action to Fixing Environmental Destruction on Co-Production Sets

The Oscar winning film, WALL·E, won audiences over by directly depicting what the future may look like if environmental pollution and annihilation continues at its current pace.<sup>46</sup> The film flashes forward to a trash-ridden earth in which a robot named WALL·E somehow manages to survive in the environmental wasteland.<sup>47</sup> Only at the end of the movie does humanity take responsibility for the environmental carnage it caused to the planet by human carelessness.<sup>48</sup> Moving forward, to avoid such a fate, co-productions should aim to rectify their environmental disruptions before, during, and post-production.

In attempting to correct environmental harms in co-productions and on-site locations in foreign countries, a universal system must monitor these de-

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46. *WALL·E*, IMDB, <https://www.imdb.com/title/tt0910970/> [https://perma.cc/SS34-DGL6].

47. A.O. Scott, *In a World Left Silent, One Heart Beeps*, N.Y. TIMES (June 27, 2008), <https://www.nytimes.com/2008/06/27/movies/27wall.html> [https://perma.cc/ME4X-8SP4].

48. Fiona Macdonald, *9 Ways Today's Society Is Like the One That Filled Earth with Garbage in WALL-E*, SCIENCE ALERT (Sept. 19, 2019), <https://www.sciencealert.com/9-similarities-between-today-s-society-and-the-one-that-filled-the-planet-with-garbage-in-wall-e> [https://perma.cc/Y76C-XL6L]; Casey Cipriani, *'Wall-E' Is 10 – And The Pixar's Movie's Steps For Saving The Planet Are More Vital Than Ever*, BUSTLE (June 25, 2018), <https://www.bustle.com/p/these-wall-e-steps-to-saving-the-environment-are-even-more-vital-today-than-they-were-10-years-ago-9412176> [https://perma.cc/46XD-WZPP]; Tara Yarlagadda, *The Best Post-Apocalypse Movie of the Century Reveals a Dark Debate over Humanity's Future*, INVERSE (June 24, 2022), <https://www.inverse.com/science/wall-e-climate-doom> [https://perma.cc/D5NM-57C4].

structions. More specifically, there should be a delegated force, either embedded in the film commissions themselves, or in every co-production, that sets guidelines before productions are put in place. For example, the film commission of a foreign country should create a branch or role designated specifically for implementing environmental policies before the co-productions begin filming. Periodic check-ins by this newly implemented role during the production process is also necessary. Considering the UN and its fellow international organizations are tackling other long-standing humanitarian and environmental issues around the world, the responsibility must fall on the co-productions themselves to take on their share.<sup>49</sup>

Moreover, with global cohesion through the Council of Europe and the AFCI, there is a clear path to create a specific role for environmental inspection on production sets. Although this appears a mighty feat, this standardized position or board across a multitude of film commissions creates structure for monitoring or regulating environmental policies on sets. This role would require an initial analysis of the environment and review of the regulations imposed by foreign environmental agencies. Following inspection, the role must design a plan for reducing destruction and waste to the filming location. Also, periodic check-ins on sets would enforce maintenance of these newfound policies at the start of production. These check-ins would establish accountability and offer corrective action before the film or show has wrapped. The most proficient means to implement such a role is hiring a regional member of a film commission to work alongside quasi-regulators such as AFCI or the Council of Europe. Additionally, this implementation would allow more accountability for the regional partners in the co-production. Working with the regional environmental partners (both governmental and non-profits) would tap into monetary funds already being allocated towards these efforts.<sup>50</sup> With its limited scope and duties, this new role, division, or board should not drain many financial resources which will allow members of the filming location to protect their countries' interests. Accordingly, co-productions should seek environmental conservation and clean-up

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49. See generally *Our Work*, UNITED NATIONS, <https://www.un.org/en/our-work> [<https://perma.cc/QJ7Q-U233>].

50. See *Secretariats and Conventions*, *supra* note 45; see generally Tim Forsyth, *What Happened on 'The Beach'? Social Movements and Governance of Tourism in Thailand*, INT'L J. SUST. DEV. 1, 9 (2002), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.532.5743&rep=rep1&type=pdf> [<https://perma.cc/W96H-W4XG>]; Henry Austin, *Star Wars Criticized for Filming On UNESCO World Heritage Site in Irish Isle*, NBC NEWS (Sep. 15, 2015), <https://www.nbcnews.com/news/europe/star-wars-has-gone-dark-side-irish-isle-filming-n427471> [<https://perma.cc/J9CZ-CFBE>].



efforts in the tax-rebate budget alongside aid from foreign environmental agencies already funded for these efforts. Thus, the only financial deficit would be from implementing the role itself which would already be supplemented by tax-rebates and reduced filming expenses.

## 2. Curtain Call for Human Rights Violations: A Proposed Course of Action

Humanitarian issues are ever-present in the entertainment industry. However, as more productions take advantage of domestic talent in foreign nations, more situations involving human rights are surfacing. To correct humanitarian rights violations or issues, a similar role or board should be delegated and created for protection of human rights through foreign film commissions such as AFCI. Again, this solution involves local and regional participation of filming destinations. Considering human rights issues are a persistent problem in certain foreign countries, more stringent force and evaluation from external countries may be necessary to influence different cultural perspectives. For example, an American co-producer should not be complacent in obvious wrongful foreign humanitarian violations disguised as “culture”. If the foreign countries’ co-producer is reluctant to comply with humanitarian policies implemented by all foreign film commissions, then the American co-producer will seek a different filming destination.

Additionally, American co-producers may seek aid from other foreign producers to review potential humanitarian injustices on their sets. This alternative solution could allow recognition of humanitarian wrongs through a collaboration of different cultural perspectives. The common acknowledgment of humanitarian violations by multiple outside co-producers on sets could then pinpoint serious issues in the corrupted foreign co-producer’s mindset. Thus, the co-producers making the production could rectify the potential humanitarian wrong and proceed with the desired filming location. However, if the managing co-producers cannot resolve the issue on set through collective internal problem-solving, potentially, the American co-producer can seek a new filming location in compliance with fundamental humanitarian rights.

Thus, between the two targeted solutions to combat environmental and humanitarian concerns, a global role within a universal organization such as AFCI or the Council of Europe could be established. With these organizations establishing critical positions into the facilitation of co-productions, corrective steps will be taken for future co-productions. Only then, may the show “go on.”

## II. ESTABLISHING RECOGNITION OF ENVIRONMENTAL TRAVESTIES RESULTING FROM CO-PRODUCTIONS

Although nations are joining forces to combat environmental devastation across the world, the entertainment industry has been able to slip through the cracks. Co-productions are a culprit in the number of rising environmental issues, as their shooting practices are not eco-centric.<sup>51</sup> While Hollywood prides itself on environmental progress, it fails to live up to its expectations abroad.<sup>52</sup>

In the United States, efforts are underway for an eco-friendlier filming set with eco-managers and local governments of shooting locations becoming involved in the “green process.”<sup>53</sup> However, one downfall of American co-productions’ is its lack of conservation during filming while in foreign locations.<sup>54</sup> Ideally, films should scout proposing locations with potential environmental impacts in mind. Then, someone from the co-production, either the country’s co-producer or someone within the film commission, will analyze which governmental agencies or regulations are being impacted by the desired location.

For example, one of the most well-known controversial environmental disruptions from a co-produced film concerned was the movie, *The Beach*.<sup>55</sup>

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51. Fitzpatrick, *supra* note 39.

52. See Interview with Yuri Sanada, *Brazilian Film Producer and Environmentalist*, WILD FOR LIFE, <https://wildfor.life/interview-with-yuri-sanada-brazilian-film-producer-and-environmentalist> [<https://perma.cc/6J78-5XWR>]; see also Amy West, *Eco-friendly filming: independent initiatives pushing productions*, KFTV (Aug. 25, 2017), <https://www.kftv.com/news/2017/08/25/eco-friendly-filming-independent-initiatives-pushing-productions> [<https://perma.cc/NF5Y-WGDG>].

53. Rotten Tomatoes Coming Soon, *The Amazing Spider-Man 2 Featurette - Sustainability (2014) - Emma Stone Movie HD*, YOUTUBE (Feb. 13, 2014), [https://youtu.be/TH6C9S\\_n8-Q](https://youtu.be/TH6C9S_n8-Q) [<https://perma.cc/X3JK-LKAU>]; Cristina Sáez, *Eco-Friendly Practices in the Film Industry*, CENTRE DE CULTURA CONTEMPORÀNIA DE BARCELONA (Jan. 28, 2019), <https://lab.cccb.org/en/eco-friendly-practices-in-the-film-industry/> [<https://perma.cc/H9EC-YEN9>].

54. Ginny Lee, *Behind the Silver Screen: Environmental Degradation in the Film Industry*, IN OUR NATURE (Nov. 27, 2022), <https://www.inournaturemag.com/all/environmental-sj6p9impact-movies> [<https://perma.cc/EAB2-W7SD>].

55. See Rasia Bruner, *Tourists Caused Too Much Damage to the Beach From Leonardo DiCaprio’s “The Beach”*, TIME (May 31, 2018), <https://time.com/5297042/leo-dicaprio-beach-closure/> [<https://perma.cc/W7K7-CCLU>] (demonstrating a more recent view of the still heavily criticized manipulation of THE BEACH. The beach the movie was filmed on is still experiencing environmental harm (from over-tourism) almost 22 years later).

Thailand, after enthusiasm from previous profits made on more sustainable filming practices of an American movie, enticed American producers to film more movies in their country.<sup>56</sup> Subsequently, a co-production began, and Thailand's Thai Royal Forestry Department (RFD) permitted *The Beach* to be filmed in a national park.<sup>57</sup> Unfortunately, Hollywood offered RFD "a gift of 4 million Baht (approximately USD \$200,000)...for assistance with ecological recovery" which ultimately violated the National Park Act of 1961. Bulldozers were used to widen the sandbar and import foreign species on set, altering the well-established ecosystem of Maya Bay, Phi Phi Leh Island.<sup>58</sup> Ultimately disregarding the panel's concerns, the government dismissed complaints and approved production.<sup>59</sup> Although this incident eventually accomplished the goal of attracting tourists, it came as an even bigger detriment to the environment.<sup>60</sup>

Unfortunately, this is not an isolated incident. During the filming of *Pirates of the Caribbean: Dead Men Tell No Tales* in Australia, the crew of the film did not ask about the overflow for fear of retaliation.<sup>61</sup> While filming *Mad Max: Fury Road*, the government-run Namibia Film Commission side-stepped environmental concerns of preserving the Dorob National Park located in the Namib Desert which is near Africa's Atlantic southern coast.<sup>62</sup> Additionally, as conservationists and the public's fears about habitat destruction increased there were accusations that they were excluded from any conversations with Ireland's government who allowed *Star Wars: The Force Awakens* to film on a UNESCO World Heritage site, Skellig Michael.<sup>63</sup>

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56. Forsyth, *supra* note 50, at 7.

57. *Id.*

58. *Id.* at 8.

59. *Id.* at 9.

60. Adam Forrest, *Tourists Have Officially Ruined the Beach from 'The Beach'*, VICE MEDIA GROUP (May 29, 2018), <http://www.vice.com/en/article/qvxxvm/tourists-have-officially-ruined-the-beach-from-the-beach-vgtrn> [<https://perma.cc/UG7L-4HXU>].

61. Laughlin, *supra* note 5.

62. Nastasya Tay, *Mad Max: Fury Road sparks real-life fury with claims of damages to desert*, THE GUARDIAN (Mar. 5, 2013), <https://www.theguardian.com/world/2013/mar/05/mad-max-fury-road-namibia> [<https://perma.cc/2EZ9-Q7YS>].

63. Austin, *supra* note 50.

With more productions being shipped overseas through co-productions, the environment could experience more turmoil due to inattentive environmental regulation and oversight. Even in 2020, major producers, once realizing how expensive green efforts could cost productions, opted out of environmental protection efforts.<sup>64</sup>

While there are opponents to “going green” for productions due to budget costs, this is not to say all producers are ignoring environmental sustainability efforts on sets abroad.<sup>65</sup> For example, some foreign countries are taking their governmental regulations seriously without hesitation, despite the belief that environmental actions mean big dollars and increased budgets; in fact, some productions have even cut costs through these initiatives.<sup>66</sup> For example, the EU has implemented the “green screen” mission aimed to combat carbon dioxide emissions.<sup>67</sup> Notably, global Hollywood entertainment companies such as Netflix, Amazon, ViacomCBS, and more have admitted to averaging 3,370 metric tons a day during movie filming and 77 metric tons per episode for standard scripted television shows.<sup>68</sup> Specifically, the creation of one sound stage for shows and films can potentially result in the destruction of 4,000 hectares (approximately 9884.215 acres) of rainforest.<sup>69</sup> In one instance, a New York University film student observed entire custom-built set pieces being dumped as trash after a production wrapped along with

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64. Chris Evans, *How the global climate crisis is threatening the film locations business*, SCREEN DAILY (June 24, 2020), <https://www.screendaily.com/features/how-the-global-climate-crisis-is-threatening-the-film-locations-business/5151027.article> [<https://perma.cc/95ME-JRLV>].

65. *Id.*

66. *Studio Sustainability Progress Report*, SONY PICTURES ENTERTAINMENT, [https://sonypicturesgreenerworld.com/sites/sonypicturesgreenerworld.com/files/2021-02/SPE\\_StudioSustainabilityProgressReport\\_.pdf](https://sonypicturesgreenerworld.com/sites/sonypicturesgreenerworld.com/files/2021-02/SPE_StudioSustainabilityProgressReport_.pdf) [<https://perma.cc/9ZH3-HBSS>]; see also *Go Behind the Scenes to See How “The Call of the Wild” Went Green on Set*, THE WALT DISNEY COMPANY (June 5, 2020), <https://thewaltdisneycompany.com/go-behind-the-scenes-to-see-how-the-call-of-the-wild-went-green-on-set/> [<https://perma.cc/MNR2-72FD>].

67. *Greening the creative industries: improving policy practices for the European Audio-visual industry*, GREEN SCREEN INTERREG EUROPE, <https://projects2014-2020.interregeurope.eu/greenscreen/> [<https://perma.cc/EX4C-Z9MU>].

68. *Close Up: Carbon Emissions of Film and Television Production*, SUSTAINABLE PRODUCTION ALLIANCE (Mar. 2021), <https://www.greenproductionguide.com/wp-content/uploads/2021/04/SPA-Carbon-Emissions-Report.pdf> [<https://perma.cc/MRS2-R72G>].

69. *Id.*

thousands of single-use plastic bottles.<sup>70</sup> Although certain countries and their efforts are laudable, foreign governments and film commissions must be held accountable for circumventing official environmental protections.

*A. Greenlit Needed: Proposed Implementation of a Designated Environmental Protection Role*

As shown, there is a clear need to monitor and implement an eco-centric initiative moving forward in co-productions. Thus, a solution to these alarming issues would be to create an officially delegated film commission person or advisory board to oversee co-productions from start to finish. This would include preliminary inspection of the environment and wildlife before production begins. Furthermore, inspections would include periodic check-ins during filming to inquire about waste, carbon emissions, and sustainability efforts regarding productions. Lastly, an inspection would be required before co-productions can officially “wrap.”<sup>71</sup> Instead of leaving messes for conservationists and foreign environmental protection agencies to clean up, it would force the productions themselves to be accountable for environmental repairs.

For example, the AFCI or the Council of Europe should design an official role or board within their organizations whose job(s) is strictly to monitor co-productions in foreign countries. The person (or body) should either be 1) appointed by each country’s film commission or 2) government liaisons following each country’s foreign laws. In a sense, the newly established position(s) would mirror a foreign governmental ambassador(s) which has the countries’ best interests in mind.<sup>72</sup> By creating an environmentally representative or board at the “governmental” table, environmental policies cannot be ignored; their “ambassador” role is intertwined with governmental

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70. *Id.*

71. Wrap in the entertainment industry is similar to the colloquial term ‘let’s wrap this up’ meaning let’s finalize the process or complete the project. Thus, in the entertainment industry, it means the taping of the final scene, and the film is done taping. Actors and the show usually have a ‘wrap party’ which emphasizes all the hard work they put into the film or show which signals the end of the project.

72. *See generally Ambassador*, CORNELL L. SCH. LEGAL INFO. INST., <https://www.law.cornell.edu/wex/ambassador> [<https://perma.cc/4GLE-USCT>].

officials and profound obligations to their countries.<sup>73</sup> Disobeying the proposed hiring of an environmental delegate and/or board should bar the production from commencing. Thus, the country is either compelled to hire an environmental contractor(s) by law or be forced to take their production elsewhere.

Ideally, there would be uniformity with this ban as a global effort; in accordance, the environmentalist<sup>74</sup> should be hired within an international organization such as the AFCI, EU, UN, or Council of Europe.<sup>75</sup> However, co-productions should seek to establish a position or board within the quasi-governmental film commissions who monitor local film commissions.<sup>76</sup> With this newfound requirement, circumvention of environmental regulations would not be possible without violating the laws implemented in each country. Although this might reduce foreign co-productions for those inflexible of adopting environmentally sustainable actions, it would positively make an impact on global environmental protections in the entertainment industry.

### III. ESTABLISHING RECOGNITION OF HUMAN RIGHTS VIOLATIONS PERPETUATED BY FOREIGN CO-PRODUCTIONS

Every country has distinctly different values, cultures, and social norms. When co-productions are beginning to form, some of these differing cultural expectations may bring harmful humanitarian issues to the forefront. While normally a diverse collaboration of nations is celebrated, there is also

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73. See generally Nat'l Museum of Am. Diplomacy, *What are the Roles of a Diplomat?*, U.S. DEP'T OF STATE, <https://diplomacy.state.gov/diplomacy/what-are-the-roles-of-a-diplomat/> [<https://perma.cc/MK5B-YWXJ>].

74. While the proposition labels the role as 'environmentalist' for a singular role, there is an option to transition and form a board if they realize they need more people involved or are overloaded. Therefore, depending on the environmental risks at hand in the multiple co-productions, there should be room for expansion to overcome these tasks and maintain steadfast adherence to the environmental goals.

75. While the proposition labels the role as 'environmentalist' for a singular role, there is an option to transition and form a board if they realize they need more people involved or are overloaded. Therefore, depending on the environmental risks at hand in the multiple co-productions, there should be room for expansion to overcome these tasks and maintain steadfast adherence to the environmental goals.

76. See *infra* notes 116–121 (As will be discussed later, there are some dominating governments, such as the Chinese Communist Party, that heavily censor media and are an integral role in co-productions set in China).

recognition that sometimes these differences can divide nations. In reference to co-productions, some nations' values regarding human rights, cultural expectations of their citizens, and societal norms may be offensive to other foreign countries. For global corporations, however, some of these differences are ignored in maintaining global diplomacies. Notably, since co-productions are strictly related to entertainment and economic benefits, corrosive humanitarian issues that are embedded in a foreign producers' culture should no longer be tolerated. In fact, co-productions must cease to exist when gross violations of fundamental human rights are brought to light.

Unfortunately, there continues to be foreign co-productions that look the other way when humanitarian harms are being conducted. Many human rights crimes are happening near filming destinations, on set, or even being exploited by the co-production for economic gain.<sup>77</sup> Although it may be uncomfortable to acknowledge issues arising in a clash of cultures during co-productions, humanitarian rights should take center stage.

### *A. You're Going to Be a Star, Kid: Exploitation of Child Performers*

#### 1. U.S. Child Stardom

Although it is recognized that children are unable to work in the United States until they reach a certain age, some countries do not also hold this same value.<sup>78</sup> For example, in the United States, the legal age to be eligible for work is fourteen years old with restrictions for certain types of employment and hours of work allowed.<sup>79</sup> However, there are exceptions for actors and child actors working in the entertainment industry. Under the Fair Labor Standards Act, Section 213 details that "child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions."<sup>80</sup> Thus, the responsibility

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77. Ritter, *supra* note 43; Rick Stevenson, *Disney's Mulan Faces Backlash For Filming In China's Xinjiang Region*, SCREEN RANT (Sept. 10, 2020), <https://screenrant.com/disney-mulan-movie-boycott-filming-china-xinjiang-region/> [<https://perma.cc/9XSL-Y49X>].

78. Janie Smith, *Your guide to age requirements around the world*, HUMAN RESOURCES DIRECTOR AMERICA (May 5, 2014), <https://www.hcamag.com/us/news/general/your-guide-to-minimum-age-requirements-around-the-world/155912> [<https://perma.cc/QSH6-CWGN>].

79. *Workers Under 18*, U.S. DEP'T OF LABOR, <https://www.dol.gov/general/topic/hiring/workersunder18#:~:text=Generally%20speaking%2C%20the%20Fair%20Labor,being%20employed%20in%20hazardous%20occupations> [<https://perma.cc/U89V-V7P6>].

80. 29 U.S.C. § 213(c)(3).

falls to the states to design their own labor laws pertaining to child stars.<sup>81</sup> In a large majority of the states, employment of child entertainers is regulated, with some requiring work permits for minors.<sup>82</sup> Accordingly, a large majority of actors are affiliated with a labor union, more commonly with the Screen Actors Guild (“SAG”) for movies and the American Federation of Television and Radio Artists (“AFTRA”)<sup>83</sup> These unions will design legal collective bargaining agreements between the union and the production studio, agency, or production in order to protect the actor’s rights such as hours, overtime, and other requirements by the U.S. Department of Labor.<sup>84</sup> However, more is necessary for child entertainers in the U.S. than just joining a union. For example, in California, children are entitled to stunt doubles, children cannot be compelled to act in scenes they believe are too dangerous, and parents are required to be on set with their child.<sup>85</sup> Additionally, children’s financial assets are also protected in California and other states by Coogan Laws which require children’s earnings to be set in a trust fund until adulthood.<sup>86</sup> While there is a strong adherence to child worker’s rights and adult performers rights in the United States, this is not always the case abroad.

## 2. Foreign Child Stardom

While some co-productions value maintaining child workers’ safety during filming, some countries they shoot on-site may themselves be harmful

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81. Marsha Mercer, *Protections for Child Actors like Honey Boo Boo*, PEW (Aug. 29, 2013), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/08/29/few-protections-for-child-actors-like-honey-boo-boo> [<https://perma.cc/T852-2LR5>].

82. *See generally Child Entertainment Laws as of January 1, 2022*, U.S. DEP’T OF LABOR (Jan. 1, 2022), <https://www.dol.gov/agencies/whd/state/child-labor/entertainment> [<https://perma.cc/2GYB-HEN6>].

83. *See generally id.*; *Legal Issues in Film Production*, LAWYERS FOR THE CREATIVE ARTS 14, [https://law-arts.org/pdf/Legal\\_Issues\\_in\\_Film\\_Production.pdf](https://law-arts.org/pdf/Legal_Issues_in_Film_Production.pdf) [<https://perma.cc/8693-GN8M>] (referring to these unions collectively as SAG-AFTRA).

84. *See generally Young Performers*, SAG-AFTRA, <https://www.sagaftra.org/membership-benefits/young-performers> [<https://perma.cc/X8AA-2YAW>].

85. *Protecting Young Performers*, SAG-AFTRA (Dec. 16, 2020), <https://www.sagaftra.org/protecting-young-performers> [<https://perma.cc/X784-ELKL>].

86. *See Coogan Law*, SAG-AFTRA, <https://www.sagaftra.org/membership-benefits/young-performers/coogan-law> [<https://perma.cc/K5GF-XT7Z>].



due to cultural beliefs. This balance between authenticity and welfare may come into dispute regarding vulnerable child actors in foreign countries. In efforts to protect children globally, the UN conducted the Convention on the Rights of the Child, which aimed to free children from exploitation.<sup>87</sup> However, the UN did not directly address the issue of children who desire to work if they're beneath the eligible age, such as child actors.<sup>88</sup> More support for protection lies in the Minimum Age Convention ("MAC") which specifies an exception to child performers if they acquire a permit that limits their hours of work.<sup>89</sup> However, the MAC creates ambiguity on what the permits allow and individual countries must bridge the gap. The European Union expanded upon MAC by creating the European Commission's European Council Directive which standardized the age of child performers to thirteen years old and detailed individual case-by-case evaluations.<sup>90</sup> This individualistic approach to production (and thus co-productions) leaves room for abuse without regulatory supervision.

In fact, many countries are filling in the gaps left by MAC while also adhering to their local regulations. For example, Malaysia grappled with adhering to MAC while also adhering to local regulations. In Malaysia's The Children and Young Persons Employment Act (1966), the child worker must be fifteen years or older but little information besides the exemption for child actors in the MAC has guided Malaysia in its human rights regulations for child entertainers.<sup>91</sup> Thus, Malaysia, and the other 117 countries who ratified MAC, must design their own child labor regulations for young

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87. See G.A. Res. 44/25, Convention on the Rights of the Child (Nov. 20, 1989), <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [<https://perma.cc/QNJ7-E7H9>].

88. *Id.*

89. *Minimum Age Convention, 1973 (No. 138)*, INTERNATIONAL LABOUR ORGANIZATION, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C138](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138) [<https://perma.cc/HEZ3-NQJD>].

90. Katherine Sand, *Child Performers Working in the Entertainment Industry Around the World: An Analysis of the Problems Faced* 9-10 (Int'l Labour Org., Working Paper No. 186, 2003), [https://www.ilo.org/wcmsp5/groups/public/—ed\\_dialogue/—sector/documents/publication/wcms\\_240701.pdf](https://www.ilo.org/wcmsp5/groups/public/—ed_dialogue/—sector/documents/publication/wcms_240701.pdf) [<https://perma.cc/X35G-W2CP>].

91. M.K. Murshamshul et al., *Child Performers in the Entertainment Industry: An Analysis from the Employment Regulations Perspective*, 8 INT'L J. OF ACAD. RSCH. IN BUS. & SOC. SCI., 1558, 1566 (2018) [<https://perma.cc/9EJA-YXNJ>].

entertainers.<sup>92</sup> This gap has created ambiguity for how children's rights can be protected in a field which calls directly for child stars.

Subsequently, children's rights are still abused in the entertainment industry. While India did expand efforts to curb overworking children by enacting the Child and Adolescent Labour Prohibition & Regulation Act of 1986, there have been recent violations of the act.<sup>93</sup> Specifically, the Union Labour and Employment Ministry of India raised concerns regarding child entertainers and flagged film producers and audiovisual creators who have violated the strict restrictions.<sup>94</sup> For instance, in *Slumdog Millionaire*, an inspiring story of overcoming life in impoverished India, the children captured on film were an alarming reality.<sup>95</sup> The slum dweller children were not actors but rather actual people exposed to the world through a fictitious story.<sup>96</sup> While putting their dignity on the line, the very raw and harsh lives of slum dwellers were exploited for "poverty porn" with the people filmed only receiving minuscule compensation.<sup>97</sup> After the movie, tourism of the slums inadvertently increased,<sup>98</sup> the citizens of India still rightfully claim it as an invasion of their lives.<sup>99</sup> Although producers of co-productions have visions for their stories, abusing human rights for authenticity must not be accepted.

Moreover, other countries also utilize children to bring in family income by serving as local extras, one-line actors, and set production workers.<sup>100</sup> Morocco is one of the many international locations for co-productions

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92. *Id.* at 1561.

93. Damini Nath, *Child Labour in Film, TV Comes Under Scanner*, THE HINDU (July 18, 2019), <https://www.thehindu.com/news/national/child-labour-in-film-tv-comes-under-scanner/article28565226.ece> [<https://perma.cc/JM3Y-EH2A>].

94. *Id.*

95. *See* Conan, *supra* note 6.

96. *Id.*

97. *Id.*

98. *See* Laura Bly, *'Slumdog Millionaire' boosts Mumbai Tourism*, ABC NEWS (Feb. 20, 2009), <https://abcnews.go.com/Travel/story?id=6921772&page=1> [<https://perma.cc/Q7WA-NHP3>].

99. *See id.*

100. Ritter, *supra* note 43.

being used for mainstream American film and movies such as *Game of Thrones*, *Babel*, and *Gladiator*.<sup>101</sup> In Morocco, there are currently no child labor laws in the film industry.<sup>102</sup> Consequently, children (even as young as newborns) are pulled from schools to be on-set, removed from their homes to be miles away on set working with strangers.<sup>103</sup> While there are benefits to co-productions taking place in Morocco such as tourism and economic bounties, there are also detrimental effects. Most of the Moroccan parents and kids cannot read the contracts they are signing and are getting paid 200-300 Moroccan dirhams (\$20-\$30 USD) per day as extras which is below the standard minimum hourly wage.<sup>104</sup> Unfortunately, families are afraid to speak against the ill treatment, fearing it is too dangerous and they will lose work.<sup>105</sup>

However, there has been a documented instance of success which has balanced these competing values. During the filming of *The Kite Runner* (which was based upon a novel by the same name), the co-production scouted local talent from Afghanistan with a focus on children.<sup>106</sup> The story travels through different humanitarian issues the author personally experienced.<sup>107</sup> Specifically, there is a sensitive rape scene filmed as portrayed in the books in which Afghan natives did not take kindly to the depiction.<sup>108</sup> The author felt compelled that this piece of the story, although jarring and

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101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. David M. Halbfinger, '*Kite Runner*' Boys Are Sent to United Arab Emirates, N.Y. TIMES (Dec. 3, 2007), <https://www.nytimes.com/2007/12/03/movies/03kite.html> [<https://perma.cc/9H6M-652Z>].

107. See generally '*Kite Runner*' Author On His Childhood, His Writing, and The Plight of Afghan Refugees, RADIOFREEEUROPE RADIO LIBERTY (June 21, 2021), <https://www.rferl.org/a/interview-kite-runner-afghan-emigre-writer-khaled-hosseini/24621078.html> [<https://perma.cc/KD9T-ASVB>].

108. '*Kite Runner*' Stirs Up Controversy With Rape, NBC UNIVERSAL (Dec. 12, 2007), <https://www.today.com/popculture/kite-runner-stirs-controversy-rape-wbna22224333> [<https://perma.cc/4KDD-V568>].

uncomfortable, was necessary to demonstrate the generational story of growing up in war-stricken Afghanistan.<sup>109</sup>

While the film itself was shot in Kashgar, China for safety measures, the Afghan child actors were under threat for potentially filming the scene.<sup>110</sup> To protect the safety of the Afghan child actors from assaults on their family or themselves, they were extracted and moved to the United Arab Emirates.<sup>111</sup> Although the movie release was delayed and production was stalled, the production valued the safety of the cast over the co-production schedule.<sup>112</sup> Unfortunately, this U.S. ethically-run co-production appears to be an outlier. New co-productions should aim to emulate the morality such as that of *The Kite Runner*'s co-production to preserve the safety of child actors. In fact, producers must value this attribute in all aspects of the co-production, even if it means drawing attention to impalpable cultural norms within foreign countries.

### *B. I'm Ready for My Close-Up: Cultural Perspective Trumps Native Human Rights in Foreign Co-Productions*

As mentioned, one of the main incentives of foreign nations for Hollywood is the deep tax cuts for international co-productions.<sup>113</sup> Countries reduce their filming rates to draw American producers to film in their country for exposure.<sup>114</sup> Tourism drives economic growth in lower-income countries.<sup>115</sup> Thus, for some countries to step foot into the entertainment industry,

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109. *Id.*; see 'Kite Runner' Author On His Childhood, His Writing, and The Plight of Afghan Refugees, *supra* note 107.

110. 'Kite Runner' Stirs Up Controversy With Rape, *supra* note 108.

111. *Id.*

112. *Id.*

113. Hundic, *supra* note 26.

114. Emily Buder, *The Best Countries in the World to Film Your Movie, Based on Production Incentives*, NO FILM SCHOOL (Aug. 22, 2016), <https://nofilmschool.com/2016/07/film-production-incentives-tax-incentives-movie-rebates> [<https://perma.cc/FY5N-72VY>].

115. See generally Naman Ramachandran, *India Reveals 30% Filming Incentive for International Productions*, VARIETY (May 18, 2022), <https://variety.com/2022/film/news/india-filming-incentive-1235270303/> [<https://perma.cc/32Q8-QQU6>]; *Travel & Tourism: A Force for Good in the World*, UNITING TRAVEL (Apr. 2018), <https://www.icao.int/Meetings/iwaf2018/Documents/Travel%20and%20Tourism.pdf> [<https://perma.cc/3V7X-GZG5>].

they hide their true humanitarian disasters behind the veil of price reductions. As U.S. film producers seek authenticity, they may turn a blind eye to the atrocities that lie beneath the surface level of the countries where they film.

In American-Chinese co-productions, Hollywood has to abide by strict guidelines imposed by the Chinese government.<sup>116</sup> In fact, U.S. producers are not legally allowed to film independently from China in its borders.<sup>117</sup> Co-productions are also limited because foreign entities may not set up joint ventures with Chinese partners without governmental approval.<sup>118</sup> Although some countries have enacted formal co-production treaties, the United States is not one of them, leaving them with limited avenues for creating co-productions.<sup>119</sup> While the U.S. does not have an official co-production treaty with China, it is still able to co-produce with Chinese studios but is subject to strict regulatory guidelines such as work permits, visas, and certain approvals through a pre-screening process.<sup>120</sup> If Hollywood wanted to pursue a “commissioned” project, the U.S. could not participate in the process and would need to release the production to the Chinese film commission alone by only providing monetary support.<sup>121</sup>

As such, most U.S. producers decide to co-produce with strict oversight from the Chinese government, and is also continuously subject to the State Administration of Radio, Film and Television’s (“SARFT”) approval.<sup>122</sup> Also, the ever-changing discretion of the Chinese Communist Party (“CCP”) with its lack of “film law” to determine guidelines and standards, creates time-consuming challenges to co-productions.<sup>123</sup> Consequently, the exposure of human rights violations on Chinese soil would not pass the scrutiny

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116. *Ten Things to Know About Working in Film in China*, AM. FILM MKT., <https://americanfilmmarket.com/working-in-film-in-china/> [<https://perma.cc/SMB2-54M2>].

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*; see generally Weiyang Peng, *Sino-US Film Coproduction: A Global Media Primer*, 1 GLOB. MEDIA AND CHINA 295, 296–311 (2016), <https://journals.sagepub.com/doi/epub/10.1177/2059436416683959> [<https://perma.cc/TE4B-FGG3>].

123. *Ten Things to Know About Working in Film in China*, *supra* note 116.

of Chinese evaluation. Any mention of wrongdoing, such as criticizing Chinese politics, derogatory statements about Chinese culture, or even general societal issues such as sex and sexuality, would be screened out of the co-production.<sup>124</sup> Hence, American producers face quite the predicament when determining whether to shoot co-productions with humanitarian violations suppressed by the Chinese Communist Party.

### 1. The Flower That Blooms in Adversity Is the Most Beautiful: The Ironic Hidden Horrors of Genocide in Disney's Live-Action *Mulan*

Unfortunately, it seems some U.S. producers continue to work with Chinese studios, despite the discomfort of ignoring Chinese genocides.<sup>125</sup> While Disney's live-action *Mulan* was slated to be one of the biggest box office premieres before COVID-19, the pandemic was not the only aspect hurting *Mulan*'s chances of success in theaters.<sup>126</sup> The film, while being shot in China, worked closely with Chinese entities that have perpetuated the genocide of Muslims in the Chinese region of Xinjiang.<sup>127</sup> Although the Disney co-production didn't only film in Xinjiang, their shooting coincided with the widespread genocide, reaching places such as "the Mingsha Shan desert, part

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124. Giuseppe Richeri, *Global Film Market, Regional Problems*, 1 GLOB. MEDIA AND CHINA 312, 322, 325 (2016), <https://journals.sagepub.com/doi/pdf/10.1177/2059436416681576> [<https://perma.cc/7X8Q-AQTJ>].

125. See Zachary Evans, 'China Has Bought Our Silence: Director Judd Apatow Criticizes Film Industry for Ignoring Uyghur 'Genocide'', NATIONAL REVIEW (Sept. 16, 2020), <https://www.nationalreview.com/news/china-has-bought-our-silence-director-judd-apatow-criticizes-film-industry-for-ignoring-uyghur-genocide/> [<https://perma.cc/QR2H-5NRB>]; see also Stephen Humphries, *Why Hollywood Turns a Blind Eye to China's Human Rights Abuses*, THE CHRISTIAN SCIENCE MONITOR (Nov. 18, 2020), <https://www.csmonitor.com/The-Culture/2020/1117/Why-Hollywood-turns-a-blind-eye-to-China-s-human-rights-abuses> [<https://perma.cc/LFL7-E95P>].

126. Michelle Renslo, *Disney's 'Mulan' Flops at Box office Following Human Rights-Related Protests*, THE FREE SPEECH PROJECT (Sept. 18, 2022), <https://freespeechproject.georgetown.edu/tracker-entries/disneys-mulan-flops-at-box-office-following-human-rights-related-protests/> [<https://perma.cc/2S8C-N3XJ>]; see also Adam B. Vary & Rebecca Rubin, *With 'Mulan,' Disney Tests Out Entirely New Early VOD Model*, VARIETY (Aug. 4, 2020), <https://variety.com/2020/film/news/mulan-disney-plus-premiere-1234711185/> [<https://perma.cc/R52N-YWB3>].

127. Lily Kuo, *Disney remake of Mulan Criticised for filming in Xinjiang*, GUARDIAN NEWS & MEDIA LIMITED (Sept. 7, 2020), <https://www.theguardian.com/film/2020/sep/07/disney-remake-of-mulan-criticised-for-filming-in-xinjiang> [<https://perma.cc/5NTG-H99Z>].

of which is in Xinjiang, and the Tuyuk Valley, an oasis village east of Turpan.”<sup>128</sup> When making decisions about where to shoot, director Niki Caro visited the Xinjiang region at least one during scouting for the film,<sup>129</sup> while other crew members spent “months in and around the north-west province of Xinjiang to do legwork research before the cameras rolled.”<sup>130</sup>

Notably, there were many other places Disney could have chosen to shoot *Mulan* in order to capture the same imagery. However, regardless of where Disney filmed, the blatant disregard of human rights violations occurring only miles from shooting locations must not be overlooked. Disney’s submissiveness is speculated to be because the company sought to be in China’s good graces after their controversial and derogative release of *Kundun*.<sup>131</sup> *Kundun* severely hindered Disney’s ability to work in Beijing.<sup>132</sup>

Moreover, the credits at the end of *Mulan* thanked more than a dozen entities.<sup>133</sup> “The film also expresses thanks to the “publicity department of CPC Xinjiang Uyghur Autonomy Region Committee”, the Chinese Communist party’s propaganda department in Xinjiang.”<sup>134</sup> The CCP is the entity that spreads misleading and false information regarding the true horrors of the internment camps for the Muslim minority in China.<sup>135</sup> Over one million

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128. *Id.*

129. Isaac Stone Fish, *Opinion: Why Disney’s new ‘Mulan’ is a scandal*, THE WASHINGTON POST (Sept. 7, 2020), <https://www.washingtonpost.com/opinions/2020/09/07/why-disneys-new-mulan-is-scandal/> [<https://perma.cc/SL2U-54DM>].

130. Kuo, *supra* note 127.

131. Fish, *supra* note 129.

132. *Id.*

133. Zack Sharf, *‘Mulan’ Backlash Grows Over Filming in Xinjiang, Site of Reported Human Rights Abuses*, INDIEWIRE (Sep. 8, 2020), <https://www.indiewire.com/2020/09/disney-filmed-mulan-xinjiang-province-human-rights-abuses-1234584904/> [<https://perma.cc/72UE-WMUF>].

134. Kuo, *supra* note 127.

135. Edward Wong & Chris Buckley, *U.S. Says China’s Repression of Uighurs Is ‘Genocide’*, N.Y. TIMES (July 27, 2021), <https://www.nytimes.com/2021/01/19/us/politics/trump-china-xinjiang.html> [<https://perma.cc/4R85-M69L>].

Muslims, with the majority being Uighur, are imprisoned in concentration camps within the city of Turpan.<sup>136</sup>

Unfortunately, the true depictions of what occurs inside the camps are not disclosed. However, detailed information as to what occurs inside the camps were found in leaked documents from China Cables, a cached collection of classified government papers.<sup>137</sup> These papers, some of which are signed by Zhu Hailun (the top security official and deputy Communist party chief in the Xinjiang region of China) highlight some of the torture, poor treatment, and propaganda the victims are subjected to.<sup>138</sup> For example, camp victims are compelled to “learn the Chinese language” and “fed endless propaganda about the glory of the CCP under strongman President Xi Jinping.”<sup>139</sup> Some countries and human rights activists to claim this as an act of cultural genocide.<sup>140</sup> Regrettably, China’s eradication of other cultures has escalated into a full-blown demographic genocide.<sup>141</sup> Eliminating Uighur Muslims in this context has violated the United Nation’s definition of genocide.<sup>142</sup> Specifically, The Hollywood Reporter claims that “Uighur residents have reported being subjected to grueling political indoctrination regimens, forced labor, and forced sterilization — part of an alleged government

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136. Sharf, *supra* note 133.

137. Charlie Campbell, *Leaked Documents Claim to Reveal Internal Protocols for China’s Muslim Detention Camps*, TIME (Nov. 25, 2019), <https://time.com/5738401/xinjiang-uighur-muslim-camps-china-cables/> [<https://perma.cc/N5SX-FWEJ>].

138. *Id.*

139. *Id.*

140. Sean Roberts, *The Roots of Cultural Genocide in Xinjiang*, FOREIGN AFFAIRS (Feb. 10, 2021), [https://www.foreignaffairs.com/articles/china/2021-02-10/roots-cultural-genocide-xinjiang?check\\_logged\\_in=1&utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=registered\\_user\\_welcome&utm\\_term=email\\_1&utm\\_content=20220212](https://www.foreignaffairs.com/articles/china/2021-02-10/roots-cultural-genocide-xinjiang?check_logged_in=1&utm_medium=promo_email&utm_source=lo_flows&utm_campaign=registered_user_welcome&utm_term=email_1&utm_content=20220212) [<https://perma.cc/6JTW-8N8G>] (“Cultural genocide aims to conform a minority to adhere to the culture of the authority while “cleansing” the culture by eradicating the language, traditions, and destroying mosques or religious sites”); *Opinion What’s Happening in Xinjiang is Genocide*, THE WASHINGTON POST (July 6, 2020), [https://www.washingtonpost.com/opinions/global-opinions/whats-happening-in-xinjiang-is-genocide/2020/07/06/cde3f9da-bfaa-11ea-9fdd-b7ac6b051dc8\\_story.html](https://www.washingtonpost.com/opinions/global-opinions/whats-happening-in-xinjiang-is-genocide/2020/07/06/cde3f9da-bfaa-11ea-9fdd-b7ac6b051dc8_story.html) [<https://perma.cc/489C-FT2D>].

141. *Opinion What’s Happening in Xinjiang is Genocide*, *supra* note 140.

142. Sigal Samuel, *China’s Genocide Against the Uyghurs, in 4 Disturbing Charts*, VOX (Mar. 10, 2021), <https://www.vox.com/future-perfect/22311356/china-uyghur-birthrate-sterilization-genocide> [<https://perma.cc/8ZPA-LKK9>].



program to suppress birth rates in the Muslim population.”<sup>143</sup> Equally as alarming, those imprisoned are being beaten, raped, and systematically abused.<sup>144</sup>

Thus, while all these acts of violence and hate occur in Xinjiang, Disney thanked the Xinjiang government, police force, and the CCP for their aid in the production.<sup>145</sup> Because of Disney’s complacency, many fans have boycotted the newest *Mulan* live-action as an outward expression of disappointment for Disney’s inappropriate relationship towards a government that perpetuates human rights violations.<sup>146</sup> Unfortunately, this is not Disney’s first rendezvous with China’s domineering and corrosive perspective on equality.<sup>147</sup>

In another Disney co-production, China forced Marvel to alter Doctor Strange’s main character of Tibetan descent to Celtic, as China refuses to recognize Tibet’s sovereignty from China.<sup>148</sup> Thus, it appears China persistently disregards individualism, independence, and human rights in co-productions. Unfortunately, Disney is not the only company to turn a blind eye to human rights violations in filming locations. Universal and Warner Bros. have also been accused of insensitive portrayals of Middle Eastern citizens

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143. Patrick Brzeski, *Disney Under Fire For Filming ‘Mulan’ in China’s Xinjiang Province*, THE HOLLYWOOD REPORTER (Sept. 7, 2020), <https://www.hollywoodreporter.com/news/general-news/disney-under-fire-for-filming-mulan-in-chinas-xinjiang-province-4056383/> [https://perma.cc/S28K-BZ8B].

144. Campbell, *supra* note 137.

145. Brittany Bernstein, *Disney Thanks Chinese Communist Party for Allowing Mulan to Be Filmed in Xianjiang, Near Uyghur Concentration Camps*, YAHOO! (Sept. 8, 2020), <https://www.yahoo.com/video/disney-thanks-chinese-communist-party-172458187.html> [https://perma.cc/BA9Z-H4QX]; Elizabeth Nolan Brown, *Disney Thanks Chinese Labor Camp Authorities in Mulan Credits*, REASON (Sept. 8, 2020), <https://reason.com/2020/09/08/disney-thanks-chinese-labor-camp-authorities-in-mulan-credits/> [https://perma.cc/9JDX-ZE7M].

146. Alex Ward, *The international controversy over Disney’s Mulan, explained*, VOX (Sept. 9, 2020), <https://www.vox.com/culture/2020/9/9/21427978/mulan-disney-controversy-explained-ughurs-xinjiang> [https://perma.cc/9JBL-3ZH5].

147. Stephen Humphries, *Why Hollywood turns a blind eye to China’s human rights abuses*, THE CHRISTIAN SCI. MONITOR (Nov. 17, 2020), <https://www.csmonitor.com/The-Culture/2020/1117/Why-Hollywood-turns-a-blind-eye-to-China-s-human-rights-abuses> [https://perma.cc/B9TU-LQT3].

148. *Id.*

and the turmoil they've experienced within the last 20 years.<sup>149</sup> For example, American Sniper paints Iraqis to be terroristic which preys on harmful perceptions from the Iraq War.<sup>150</sup> More recently, Universal has plans to create a movie depicting the "heroic" withdrawal of American soldiers from Afghanistan. This comes at a time where Afghanistan is still reeling from bomb explosions and desperate attempts to jump on the planes of fleeing soldiers.<sup>151</sup>

As noted, Morocco, Thailand, India and others conceal the true cultural and environmental damage with the glamor of co-productions.<sup>152</sup> Although these concealed humanitarian violations escape searching eyes from the likes of the UN and EU, these countries, and many others, continue to slip through the cracks. While progress is yet to be made to protect those who have been stripped of their rights in oppressive foreign countries, other countries have taken these steps.<sup>153</sup> Due to the gaps left in entertainment co-productions within local foreign jurisdictions, countries are left with local laws to protect workers.<sup>154</sup> To the contrary, Canada took progressive efforts to protect child

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149. Ahmed Twaij, *Movie on Afghanistan exit with Channing Tatum and Tom Hardy is an insult to Afghans*, NBC NEWS (Nov. 16, 2021), <https://www.nbcnews.com/think/opinion/movie-afghanistan-exit-channing-tatum-tom-hardy-insult-afghans-ncna1283924> [<https://perma.cc/44Q5-PXUF>]; see Amanda Taub, *Every Movie Rewrites History. What American Sniper Did is Much, Much Worse.*, VOX MEDIA (Jan. 22, 2015), <https://www.vox.com/2015/1/22/7859791/american-sniper-iraq> [<https://perma.cc/D3ZN-RRGS>].

150. Taub, *supra* note 149.

151. Twaij, *supra* note 149.

152. See Forsyth, *supra* note 50; see also Ritter, *supra* note 43; Conan, *supra* note 6.

153. See An Act Providing for the Development and Promotion of Film and Television Tourism, Providing Funds Therefor and for Other Purposes, H.R. 1998, 18th Cong. (2019) (Phil.); see also Occupational Health And Safety In The Entertainment Industry: Even Superman Needs Protection At Work, ENHESA (Feb. 12, 2022), <https://www.enhesa.com/resources/article/occupational-health-and-safety-in-the-entertainment-industry-even-superman-needs-protection-at-work/> [<https://perma.cc/6Y89-9ZFQ>].

154. See also Rob Lenihan, *Filming in foreign locations complicates risk: Report*, BUSINESS INSURANCE (Mar. 21, 2017), <https://www.businessinsurance.com/article/20170321/news06/912312479/filming-movies-in-foreign-locations-adds-to-risks-complicates-insurance-says-chu> [<https://perma.cc/U29B-CKKV>] (The safety measures of co-productions are where some of the gaps may be filled in. Due to an absence of language in some countries' guiding treaties or in general co-productions between countries, filling in the blanks is left to the foreign countries dictating the productions. Thankfully, there are countries taking a proactive measure on their sets to compensate for the lack of explicit directives for worker safety in the business.); see *Occupational Health and Safety in the Entertainment Industry*, *supra* note 153.

employees in the entertainment industry.<sup>155</sup> Canada has taken honorable steps such as: limiting the amount of hours and days a child entertainer can work, requiring minor accompaniment on sets and performances, and appointing child-specific coordinators to provide welfare and safety to the child for each production.<sup>156</sup> Unfortunately, these efforts exclude co-productions in Canada.<sup>157</sup> Instead, Canada has prioritized the foreign film producer's contract and co-production treaty as typically dictating the work schedule.<sup>158</sup> In a sense, Canada is giving way to foreign producers to waive work permits and proceed with co-production treaties as designating work hours and schedules.<sup>159</sup> Accordingly, as long as Canada's preferred film commissioner, Telefilm Canada, has approved the co-production, the treaty falls outside the regulatory scope of Canada's government protections for workers.<sup>160</sup> Thus, there is still room for improvement for co-productions and workers' rights in Canada.<sup>161</sup>

Additionally, the Philippines is making strides towards a promising promotion of safe working environments for international co-productions.<sup>162</sup> The Philippines' government recently filed a bill which tentatively creates a new film commission (serving underneath the Film Development Council)

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155. Michael Comartin & Hugh A. Christie, *Employing Minors in the Entertainment Industry: A Primer for Employers Doing Business in Canada*, OGLETTREE, DEAKINS, NASH, SMOAK & STEWART, P.C. (Feb. 23, 2017), <https://ogletree.com/insights/employing-minors-in-the-entertainment-industry-a-primer-for-employers-doing-business-in-canada/> [https://perma.cc/QDE3-HAK9].

156. *Id.*

157. *Artistic And Performing Arts Occupations – Authorization To Work Without A Work Permit (International Mobility Program)*, GOVERNMENT OF CANADA (Nov. 21, 2018), <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/work-without-permit/arts/occupations.html#film-producers> [https://perma.cc/H82W-MHXN].

158. *Id.*

159. *Id.*

160. *Id.*

161. *Artistic And Performing Arts Occupations – Authorization To Work Without A Work Permit (International Mobility Program)*, *supra* note 157.

162. *See* Revised Rules And Regulations To Implement The Provisions Of Republic Act No. 9167, Revision of Rep. Act No. 9167 § 10(d)(viii), (2020) (Phil.).

composed of private sector representatives, the Movie and Television Review Classification, the Department of Labor, and other governmental agencies which enact oversight of the industry.<sup>163</sup> While their main purpose for the legislation was tax incentives to drive tourism from co-productions, the Philippines' government thoroughly and thoughtfully planned for the consequences of such enactment.<sup>164</sup> For example, the legislation foresaw the potential for items to be resold post-production, partnerships with local government units (such as the Department of Labor), and organizations abiding by environmental regulations.<sup>165</sup>

Another piece of legislation considered the impact of tourism and the potential destruction and abuses to the people living near tourist attractions from co-productions.<sup>166</sup> Both bills are prime examples of a foreign government welcoming co-productions in a structured way with government regulation for both the production and the country. With this new legislation, there is potential growth for humanitarian cooperation between the AFCI and the new Philippine Film Commission.<sup>167</sup> The bills constitute laudable efforts towards protections regarding co-productions and their effects, despite their pending approval.<sup>168</sup>

Accordingly, if the new proposed role of a humanitarian overseer in the AFCI or Council of Europe was created, they would be able to monitor the safety of persons in co-productions. Even further, there would be support from those like the Philippines' government to proactively protect their citizens in co-productions and the environmental aftermath of such productions. This is a stark contrast to Chinese co-productions which hinder oversight of

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163. An Act Establishing the Framework for Film and Television Tourism in the Philippines, H.R. 1255, 18th Cong. (2022) (Phil.).

164. *See generally id.*

165. Revision of Rep. Act No. 9167, *supra* note 162.

166. *See generally* An Act Providing for the Development and Promotion of Film and Television Tourism, Providing Funds Therefor and for Other Purposes, H.R. 1998, 18th Cong. (2019) (Phil.).

167. *See generally* An Act to Promote and Support the Development and Growth of the Philippine Film Industry, Creating for this Purpose the Philippine Film Commission, Defining Its Powers and Functions and for Other Purposes, H.R. 3805, 18th Cong. (2019) (Phil.).

168. *See generally* House Bills and Resolutions, 18th Cong. (Phil.), <https://www.congress.gov.ph/legisdocs/?v=bills> [<https://perma.cc/L8NP-FMK5>].

the integrity of human rights in their regions of filming.<sup>169</sup> It also highlights the need for a uniform co-production overseer or board for both humanitarian and environmental issues in foreign jurisdictions with the support from the countries' governments. Even further, non-compliance with this newly established role or the inability to recognize standardized human rights violations should disqualify uncooperating countries.

#### IV. HARMONIZING THE NEED FOR A ROLE FOR MONITORING AND REGULATING FOREIGN CO-PRODUCTIONS

There are substantial issues hidden within co-productions. Environmental destruction has resulted from U.S. and foreign countries' co-productions.<sup>170</sup> The environmental impacts are devastating to ecosystems, nature, and wildlife around the world.<sup>171</sup> The examples of Thailand, Iceland, Ireland, Australia, and Namibia are only some of the environmental disasters imposed by co-productions with the United States. Other co-productions are more discrete with their harmful environmental impacts during production or post-production. Thus, there are unreported and undocumented environmental atrocities in entertainment and media yet to be discovered. Hence, the proposed solution of delegating a role specifically targeted to prevent environmental wreckage could aid in recognizing and correcting potential environmental crises before they even arise.

##### *A. Environmental Destruction in Co-Productions Is More Than a Movie, It's Reality*

Box-office smash and co-production, *Dune*, discreetly attacks human waste, consumption, and environmental desecration as a theme in the film.<sup>172</sup> The deserts of Jordan and the United Arab Emirates, harbor enormous amounts of carbon dioxide which prevents it from being released into the

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169. See generally *Ten Things to Know About Working in Film in China*, *supra* note 116.

170. See Laughlin, *supra* note 5; see also Tay, *supra* note 62.

171. See Laughlin, *supra* note 5; see also Tay, *supra* note 62; Forrest, *supra* note 60.

172. Tara Yarlagadda, *The Best New Sci-Fi Movie On HBO Max Reveals A Real-Life Ecological Crisis*, INVERSE (Oct. 22, 2021), <https://www.inverse.com/science/dune-environmental-message-science> [<https://perma.cc/R5XF-W7EK>].

ozone.<sup>173</sup> The very essence of Dune, and its fictional Arrakis, represents one of the most toxic traits of humans: to take and then leave, regardless of what happens afterwards.<sup>174</sup> Accordingly, when huge co-productions film on these mass drylands, they are disrupting the natural balance of the carbon dioxide beneath the surface, in addition to creating more CO<sub>2</sub> the desert must absorb.<sup>175</sup> However, with the rise of global warming and human industrial growth, the desert is already overloading.<sup>176</sup>

Similarly, co-productions take and utilize filming destinations without consideration of the costs to the foreign country and its population (both wildlife and human).<sup>177</sup> Thus, implementation of a newly devised role within the Council of Europe (for European Countries) or the AFCI (which coordinates with commissions in foreign countries' filming destinations) is vital. Thus, the person elected or placed into the position, hypothetically called the "Environmental Sustainability Regulator for Foreign Co-Productions," will actively monitor situations of all co-productions before, during, and after the production has occurred in the desired filming destination.

However, due to the daunting number of co-productions globally, this position would likely expand to a board of officials whose job is to regulate and monitor a collection of co-producers within the board. Thus, if the AFCI were to accept the proposed role of an environmental monitor for each co-productions coordinated, this person would be required to be a hands-on member of co-productions. Therefore, each country's film commission or commissions must hire a person who would act similarly. However, the problem with foreign countries appointing their own environmental protectionist mirrors the problems that governmental agencies already encounter: corruption and deception of environmental protections on set.

Accordingly, the ideal solution to this ecological problem is to utilize the appointed official(s) at the AFCI or the Council of Europe to compel the reluctant countries to cooperate in environmental efforts. While the method

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173. *Id.*

174. *Id.*

175. Yarlagadda, *supra* note 172; see Fitzpatrick, *supra* note 39; see Bobby Magill, *Desert Basins May Hold Missing Carbon Sinks*, SCIENTIFIC AMERICAN (June 21, 2017), <https://www.scientificamerican.com/article/desert-basins-may-hold-missing-carbon-sinks/> [https://perma.cc/S9HD-QWQD].

176. Magill, *supra* note 175.

177. See Goel, *supra* note 41; see also Austin, *supra* note 50.

of persuasion shall be ultimately up to the entity delegating this role, a proper means would be to directly contact the environmental agency of the foreign country. If the country is hesitant or refuses to provide the agency, then the co-production should cease until they are put in contact with the governing environmental body. Otherwise, the AFCI environment monitor(s) should bar the country's participation in co-productions. Although this proposal would likely frustrate international co-productions, overall environmental protections should hold more importance in the global entertainment industry.

### *B. Human Rights Are Equal Everywhere, Including Co-Productions*

Likewise, implementation of a similar role for international co-production humanitarian issues is necessary. Co-productions have historically ignored humanitarian concerns within the foreign jurisdiction where filming occurs. Similar to the theme exhibited in the environmental issues aforementioned, co-productions also leave human rights violations in their wake.

Unfortunately, the human rights violations highlighted in Chinese, Moroccan, and Afghan co-productions are only the tip of the iceberg. Most likely, some wrongdoings remain hidden due to the shame and obvious unconscionability of taking on these co-productions.

As discussed, Disney knowingly ignored the horrific disturbances to the minority group of Muslims to capture the vision of Mulan.<sup>178</sup> Also, as noted in the Philippines' proposed bills, co-productions can disrupt and intrude on the daily lives of those who live in filming destinations.<sup>179</sup> Consequently, the citizens' human rights in their own countries are left in disarray post-production, either due to persistent tourism or ignorance of ongoing humanitarian issues that were scrapped under the rug.<sup>180</sup>

Another grave concern is that co-productions ignore such violations in the name of capturing authenticity.<sup>181</sup> To get the best footage and make their

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178. Kuo, *supra* note 127.

179. H.R. 1998 (Phil.), *supra* note 166.

180. Tay, *supra* note 62; see also Matteo Fagotto, *Meet the real stars of Morocco's Hollywood in the desert*, THE NATIONAL (May 17, 2017), <https://www.thenationalnews.com/arts/meet-the-real-stars-of-moroccos-hollywood-in-the-desert-1.66535> [<https://perma.cc/3Z4U-6WDQ>].

181. Fish, *supra* note 129; Tyler Aquilina, *Disney executive defends Mulan filming in China despite government's human rights abuses*, ENTERTAINMENT WEEKLY (Oct. 10, 2020), <https://ew.com/movies/disney-defends-mulan-filming-in-china/> [<https://perma.cc/9V9A-3T9B>].

tax-incentive reductions worthwhile, cultural disruptions are also side-stepped. Therefore, appointment of a human rights neutral party to co-productions is essential to look out for the best interests of citizens of foreign countries. As proposed in the environmental concern discussion, a delegated official should ideally be elected as a uniform actor in managing co-productions. Again, the AFCI seems like an appropriate fit, as their advisory board holds notable U.S. heads of massive producers in Hollywood.<sup>182</sup>

Thus, adding an additional committee to monitor and regulate human rights is necessary. As a facilitator and tie-in with foreign film commissions and government representatives for foreign countries, sending a person from AFCI to evaluate the possible humanitarian issues is plausible. While this humanitarian and cultural protection evaluation should be considered before production, periodic check-ins are likewise as important. If human rights issues were to bubble to the surface during the filming of a co-production, U.S. filmmakers should aim to avoid co-productions with the country in the future. Additionally, if the film is already aimed towards completion, the best course of action would be to publicly address and demonstrate a lack of support on the volatile, controversial issue. While this might be problematic for the film's success, it might also promote awareness for the atrocities occurring in the foreign country.

Accordingly, this might call for appropriate corrective actions to be taken by the UN and other human rights activists. Additionally, the public might respond favorably to acknowledgement and vehement disapproval of the humanitarian issues that arise during production. The co-production could contribute to activists' actions post-production from ticket sales and revenue. This might garner support from the general public and disallow humanitarian issues to dissolve the co-productions' story. Most importantly, the proposed overseer in either the AFCI, the Council of Europe (or even the UN if funds were available) could bar U.S. co-productions with foreign countries who are human rights violators.

Uniformity in co-productions regulation in foreign countries is essential moving forward in international co-productions. Thus, while implementation of foreign film commissions who coordinate co-productions might have some benefits, this implementation will not make the strides needed to create a more humane filmmaking process. Co-productions continuously ignore human rights violations, as they can reap the financial and aesthetic benefits and leave human catastrophe behind. Therefore, the co-production can circumvent the issue without getting too involved in the controversy and

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182. *The Evolution of Film Commission Services*, *supra* note 15.



shame of co-producing with countries who violate human rights. The best course of action is to implement and force regulation onto co-productions through a position specifically designed for this very reason. As mentioned, this role would need to be positioned as a united film overseer (such as AFCI) to prevent corrupted productions in contravention of human rights. Otherwise, coordinating countries should cease co-productions with countries that are non-compliant with film commission-enforced oversight and exclude foreign co-productions with known violators.

## V. THE FINAL ACT

Considering all factors discussed, concerning both environmental and humanitarian travesties, there is a serious and dire need for control of these issues. While it would seem natural for co-productions to tackle these issues themselves, precedent creates the presumption that it will not occur without intervention. Thus, the implementation of a delegate official or committee in a uniform governing or coordinating body of co-productions is critical. Additionally, cutting off ties with wrongdoers will also enforce compliance and cooperation with newly regulated standards under universal film commissions such as the AFCI and Council of Europe. Without progressive steps towards corrective action and recognition of past wrongs, there is no hope for co-productions to mitigate or eliminate humanitarian and environmental damage. Hopefully, then, there isn't a sequel to the destructive nightmare in co-production of films and shows.