### CX:

### What’s indigeneous knowledge

### 1NC

#### A. Interpretation – medicine refers to substances only. Affirmatives must not reduce IP protections for other medicinal products.

Kurrer 21 [Christian Kurrer, Policy Analyst at European Parliament. "Medicines and Medical Devices," European Parliament, 05-2021, accessed 9-2-2021, https://www.europarl.europa.eu/factsheets/en/sheet/50/medicines-and-medical-devices] HWIC

A. General rules on medicines

A medicinal product (medicine) is a substance or combination of substances that is used for the treatment or prevention of diseases in human beings. With the aim of safeguarding public health, the market authorisation, classification and labelling of medicines has been regulated in the EU since 1965. The evaluation of medicines has been centralised through the European Medicines Agency (EMA) since its creation in 1993 and a centralised authorisation procedure was put in place in 1995 to guarantee the highest level of public health and to secure the availability of medicinal products. The main pieces of legislation in this area are Directive 2001/83/EC[[1]](https://www.europarl.europa.eu/factsheets/en/sheet/50/medicines-and-medical-devices" \l "_ftn1) and Regulation (EC) No 726/2004[[2]](https://www.europarl.europa.eu/factsheets/en/sheet/50/medicines-and-medical-devices" \l "_ftn2), which lay down the rules for establishing centralised and decentralised procedures.

#### B. Violation: They eliminate patents on medicines based on Indigenous knowledge from patentability.

#### C. Reasons to prefer

#### 1. Limits -- allowing any patented medical device includes testing and screening methods, PPE, contact tracing software etc. which takes away generics like innovation bc that applies to pharmaceutical development not distribution of preventative measures which explodes neg prep burden

#### 2. Precision -- we cite the European Parliament which proves common usage in trade and the law -- predictability is k2 pre-tournament prep and deep clash around the core topic controversy. Reject counter-interps without a positive vision of the topic -- otherwise they can always shift the goalposts

#### D. Paradigm issues

#### 1. Drop the debater -- they skewed the debate from the 1AC and T indicts their advocacy

#### 2. Competing interps -- you can't be reasonably topical and reasonability invites judge intervention

#### 3. No RVIs -- forcing the 1NC to go all in kills substance education and discourages checking abuse

### 1NC

#### We endorse the entirety of the 1AC minus their use and framing of “settler” colonialism.

#### The underpinnings of “settler” colonialism theory are rooted in reconciliation and implies that the nation-state is no longer colonial. We should hold onto other framings like imperialism to understand violence against indigenous peoples.

Barker 11

(Joanna Barker, , California-born Lenape (citizen of the Delaware Tribe of Indians). Professor of American Indian Studies at San Francisco State University, 2-13-11, Why “Settler Colonialism” Isn’t Exactly Right, https://tequilasovereign.com/2011/02/28/why-settler-colonialism-isnt-exactly-right/, JKS)

In numerous books and articles published in between these definitions (1999 and 2010), authors have sought to flush out the specific historical conditions of when, how, and why settlers have claimed sovereignty and territorial rights over indigenous peoples. These conditions have been located within settler programs of genocide (Patrick Wolfe’s 2006 essay “Settler Colonialism and the Elimination of the Native”), settler segregationist land rights laws (Sherene H. Razack’s 2002 edition, Race, Space, and the Law: Unsettling a White Settler Society), settler theft of indigenous children (Margaret D. Jacobs’ 2009 book White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940), and settler assertions of jurisdiction over indigenous lands and crimes (Lisa Ford’s 2010 book Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836). I have not been entirely convinced by the arguments about “settler colonialism” in these works, and have been thinking much about why that is so. I have learned a lot about the important historical differences between what is described as “imperial,” “colonial,” “settler,” and “nation-state” understandings and claims of their own sovereignties and territorial rights against those of indigenous peoples. I have also had lots of unease with the claim that something new or unique has happened within “settler colonialism” from the empire/imperialism of the nation-state. So I begin with the etymology of “settler” as a thing or person that settles within the etymology of “settle” as a thing or person that “comes to rest,” that establishes a “permanent residence.” Fair enough. That would seem to be in line with the important efforts of scholars like Wolfe, Cavanagh, Veracini, Razack, Jacobs, Ford, and so many others to figure out the kind of “colonial” structure and social formation that has been historically articulated through the ascension of the Nation-State and its usurpation of indigenous sovereignty and territorial rights through criminal jurisdiction and violent programs of genocide and child theft. But “settle” also belongs etymologically to “reconcile” or “reconciliation,” which means to “bring together” (again), to “make friendly,” and to “make consistent.” And here is where I have troubles with “settler colonialism.” Because it suggests not merely an important set of contingencies within the historical genocide and dispossession of indigenous peoples, but because it anticipates a reconciling of those histories within the current structure and social formation of the nation-state. A nation-state that is, albeit colonial, but by implication no longer imperialist or colonialist proper. The nation-state is treated within “settler colonialism” as having moved beyond its own tragically imperial and colonial history to be something else, still albeit colonial, but not quite entirely colonial because it is “reconciled” and “consistent.” I guess I am wanting to hold onto harsher terms like “imperialism” and “colonialism” proper to describe the current relationship of the United States to American Indians, Alaskan Natives, Native Hawaiians, and the indigenous peoples of its occupied territories in the Pacific and the Caribbean. I think it is important and necessary to secure indigenous self-determination and decolonization to hold onto the “empire” in our understanding, describing, and strategizing ways of empowerment and revolution. Of course, the U.S. as an empire has gone through many transformations since the 1770s. Of course it is important to understand those transformations in all of their historical contingencies and cultural specificities. But I do not think “settler colonialism” helps us understand the current structure or social formation of the U.S. as a global force or in relation to indigenous peoples within its various kinds of borders.

#### Framing colonialism without the baggage of “settler” solves the aff

Barker 11

(Joanne Barker, California-born Lenape (citizen of the Delaware Tribe of Indians). Professor of American Indian Studies at San Francisco State University.3-15-11, More Musings on Why “Settler Colonialism” Doesn’t Work (For Me), https://tequilasovereign.com/2011/03/16/more-musings-on-why-settler-colonialism-doesnt-work-for-me/, JKS)

The point in the United States, as an imperial power, is that the rhetoric of state apologies has allowed the U.S. to coopt the issues to its ends. So that, whether you read the apologies as articulated through dominant religious dogma about “forgiveness” or a more secular humanist claim to the “public good,” what the apologies work to “restore” is not healing and empowerment of the abused and the oppressed. What they work to “restore” is the formation of the very same interpersonal and social structures that uphold the nation-state’s power (like certain kinds of families and certain kinds of communities) and in which violence against women, children, and racialized groups is made possible (rationalizing and warranting ever-expanding forms of state control). So that, while indigenous peoples have welcomed (for the most part) the apologies as an acknowledgement of the severe historical wrongs and grossly unlawful actions of their states in regards to their self-determination and territorial rights, the apologies have completely cut off the possibility for any restitution or reparation of indigenous governance and territories in the context of those wrongs and actions. In effect, then, the apologies have been about recusal and amnesty for the imperial state, providing for the operationalization of state power to disclaim and be recused from any legal obligation or responsibility to redress their historical wrongs and illegal actions in court. It is as if powerful imperial states like the U.S., Australia, and Canada are saying, “sorry,” but ultimately I/we have no legal responsibility or culpability in the historical wrongs and illegal actions committed against you as individuals or as sovereign nations. I/we apologize and might be willing/able to pay you off, but any other real restitution is simply not going to happen. So get over it. It happened in the past, anyways. As I wrote previously, “settler” belongs etymologically to “reconcile.” Imperial Privilege I think a great part of the disclaimers at the heart of nation-state apologies to indigenous peoples is inseparable from the historical and ongoing efforts of nation-state governments to protect their legal and economic entitlements to indigenous governments, lands, and bodies. The nation-state has, after all, been able to establish and maintain its privileges and access to indigenous peoples’ governments, lands and bodies without any real fear of international accountability or legal consequence. So, while costly and difficult, it would seem that indigenous peoples should simply stop asking the nation-state for apologies and demand a full court legal redress. For unless or until the state is genuinely prepared to make legal reparations, apologies are disingenuous at best and insulting at worst. There can be no “restoration” or “reconciliation” without responsibility and reparation. And that difference is the difference between “settler colonialism” and the imperial state. It is the different between understanding a nation-state as a polity that has transformed itself from a colonial, imperial historical past into a liberal humanist democracy. Albeit still colonial, but ultimately reconciled within itself to its ideals.

#### This isn’t a dirty word PIC that tries to skate aff discussion but about our conceptual frame of the structure of the imperial state and which lens you should endorse – all of their aff framing proves our analytics lenses are important

**1NC Text**

#### Text: The World Trade Organization ought to be abolished. The following 164 countries listed in the speech doc ought to independently and without influence from international government eliminate patents on medicines based on Indigenous knowledge from patentability.

Afghanistan

Albania

Angola

Antigua and Barbuda

Argentina

Armenia

Australia

Austria

Bahrain, Kingdom of

Bangladesh

Barbados

Belgium

Belize

Benin

Bolivia, Plurinational State of

Botswana

Brazil

Brunei Darussalam

Bulgaria

Burkina Faso

Burundi

Cabo Verde

Cambodia

Cameroon

Canada

Central African Republic

Chad

Chile

China

Colombia

Congo

Costa Rica

Côte d’Ivoire

Croatia

Cuba

Cyprus

Czech Republic

Democratic Republic of the Congo

Denmark

Djibouti

Dominica

Dominican Republic

Ecuador

Egypt

El Salvador

Estonia

Eswatini

European Union (formerly EC)

Fiji

Finland

France

Gabon

Gambia

Georgia

Germany

Ghana

Greece

Grenada

Guatemala

Guinea

Guinea-Bissau

Guyana

Haiti

Honduras

Hong Kong, China

Hungary

Iceland

India

Indonesia

Ireland

Israel

Italy

Jamaica

Japan

Jordan

Kazakhstan

Kenya

Korea, Republic of

Kuwait, the State of

Kyrgyz Republic

Lao People’s Democratic Republic

Latvia

Lesotho

Liberia

Liechtenstein

Lithuania

Luxembourg

Macao, China

Madagascar

Malawi

Malaysia

Maldives

Mali

Malta

Mauritania

Mauritius

Mexico

Moldova, Republic of

Mongolia

Montenegro

Morocco

Mozambique

Myanmar

Namibia

Nepal

Netherlands

New Zealand

Nicaragua

Niger

Nigeria

North Macedonia

Norway

Oman

Pakistan

Panama

Papua New Guinea

Paraguay

Peru

Philippines

Poland

Portugal

Qatar

Romania

Russian Federation

Rwanda

Saint Kitts and Nevis

Saint Lucia

Saint Vincent and the Grenadines

Samoa

Saudi Arabia, Kingdom of

Senegal

Seychelles

Sierra Leone

Singapore

Slovak Republic

Slovenia

Solomon Islands

South Africa

Spain

Sri Lanka

Suriname

Sweden

Switzerland

Chinese Taipei

Tajikistan

Tanzania

Thailand

Togo

Tonga

Trinidad and Tobago

Tunisia

Turkey

Uganda

Ukraine

United Arab Emirates

United Kingdom

United States

Uruguay

Vanuatu

Venezuela, Bolivarian Republic of

Viet Nam

Yemen

Zambia

Zimbabwe

**Hawley, senator, JD Yale, 20**

(Josh, 5-5, https://www.nytimes.com/2020/05/05/opinion/hawley-abolish-wto-china.html)

The coronavirus emergency is not only a public health crisis. With [30 million Americans unemployed](https://www.cnbc.com/2020/04/30/us-weekly-jobless-claims.html), it is also an economic crisis. And it has exposed a hard truth about the modern global economy: it weakens American workers and has empowered China’s rise. That must change. The global economic system as we know it is a relic; it requires reform, top to bottom. We should begin with one of its leading institutions, **the World Trade Organization. We should abolish it.**

**Eliminating the WTO ends U.S. global hegemony**

**Bello, PhD, 2000**

(Walden, Sociology @ Stanford, https://users.ox.ac.uk/~magd1352/ecologist/Should%20WTO%20be%20abolished.pdf)

The idea that the world needs the World Trade Organisation (WTO) is one of the biggest lies of our time. The WTO came about, in 1995, mainly because it was in the interest of the US and its corporations. The European Union, Japan and especially the developing countries were mostly ambivalent about the idea; it was the US which drove it on. Why? Because though the US, back in 1948, blocked the formation of an International Trade Organisation (ITO), believing that, at that time, the interests of its corporations would not be served by such a global body, it had changed its mind by the 1990s. Now it wanted an international trade body. Why? Because its global economic dominance was threatened. The flexible GATT (General Agreement on Tariffs and Trade) system, which preceded the WTO, had allowed the emergence of Europe and East Asia as competing industrial centres that threatened US dominance even in many high-tech industries. Under GATT’s system of global agricultural trade, Europe had emerged as a formidable agricultural power even as Third World governments concerned with preserving their agriculture and rural societies limited the penetration of their markets by US agricultural products. In other words, before the WTO, **global trade was growing by leaps and bounds**, but countries were using trade policy to industrialise and adapt to the growth of trade so that their economies would be enhanced by global trade and not be marginalised by it. That was a problem, from the US point of view. And that was why the US needed the WTO. The essence of the WTO is seen in three of its central agreements: the Agreement on Trade Related Intellectual Property Rights (TRIPs), the Agreement on Agriculture (AOA), and the Agreement on Trade Related Investment Measures (TRIMs). The purpose of TRIPs is **not to promote free trade but to enhance monopoly power**. One cannot quarrel with the fact that innovators should have preferential access to the benefits that flow from their innovation for a period of time. TRIPs, however, goes beyond this to institutionalise a monopoly for high-tech corporate innovators, most of them from the North. Among other things, TRIPs provides a generalised minimum patent protection of 20 years; institutes draconian border regulations against products judged to be violating intellectual property rights; and – contrary to the judicial principle of presuming innocence until proven guilty – places the burden of proof on the presumed violator of process patents. What TRIPs does is reinforce the monopolistic or oligopolistic position of US high tech firms such as Microsoft and Intel. It makes industrialisation by imitation or industrialisation via loose conditions of technology transfer – a strategy employed by the US, Germany, Japan, and South Korea during the early phases of their industrialisation – all but impossible. It enables **the technological leader**, in this case **the US, to greatly influence** **the pace of technological and industrial development in the rest of the world**.

**The WTO as an institution is unethical and perpetuates colonialism**

**Godrej 20**

(Dinyar, Co-editor @ New Internationalist, 4-20, https://newint.org/features/2020/02/10/brief-history-impoverishment)

For countries that were undergoing economic ravishment by structural adjustment, the 1990s brought new **torments in the form of the World Trade Organization** (WTO), a club dominated by rich nations. In the name of creating a ‘level playing field’, the WTO required poorer countries to sign up to an all-or-nothing, binding set of rules, which removed protections for domestic industries and allowed foreign capital unhindered access. This **was strongly prejudicial to the interests of local industries**, which were not in a position to withstand foreign competition. Influence within the WTO is weighted by the size of a nation’s economy – thus **even if all poorer nations joined forces** to demand policy changes **they would still not have a chance** against wealthy nations. This trade injustice has drawn widespread protests and pressure for the WTO to reform. Meanwhile, wealthy nations are increasingly going down the route of bilateral Free Trade Agreements (FTAs). Usually negotiated in secret, the interests of their corporations are paramount in FTAs and include the ability to sue states for eye-watering sums (should they, for example, want to terminate a contract or nationalize an industry) with no provision for states to do the same. Such instruments are working to create a utopia for transnational corporations, creating a business-friendly climate, which translates as the **demolition of labour protection, tax cuts for the wealthiest and a supine regulatory environment**. Tax havens operated by the richest countries are home to huge sums of illicit wealth draining out of some of the poorest. Today, due to how the global economy has been engineered, **for every dollar of aid sent to poorer countries, they lose 10 times as much in outflows** – **and that’s before one counts their losses through unfair trade rules and underpaid labour**. Foreign investors take nearly $500 billion a year in profits from the Global South, and trade-power imbalances cost poorer nations $700 billion a year in lost export revenue. 7 CONCENTRATION In the 21st century wealth increasingly flows through corporate hands towards a small super-elite. In a trend that began in the 1990s, the lion’s share of equity value is being realized through squeezing workers: the classification ‘working poor’ so familiar in the Global South is now increasingly also being used in the wealthy North, where neoliberal capitalism is leading inevitably to wage erosion and work precarity, coupled with the withdrawal of state support. Inequality is rising dramatically. In 2018 the richest 26 people owned wealth equivalent to the poorest half of the world’s population. And their wealth was increasing at the rate of $2.5 billion a day. Meanwhile 3.4 billion people – nearly half the world – were living on less than $5.50 a day.

### Case:

### 1NC— ‘Ecological Indian’ K

#### Their assertion of a monolithic form of “indigenous knowledge” essentializes history and places a disproportionate burden on indigenous peoples for conservationism.

-Important to frame this not as saying “natives bad for environment” but rather that the assertion that indigenous folks are inherently conservationists and always have been is essentializing and places a massive disproportionate burden on them

-this is also a good card to hedge back against the alt solves case push the block will go for

Anker et al. 20 [Kirsten Anker, teaches property, legal theory and Aboriginal law/Indigenous legal traditions at McGill University, with research interests extending also to evidence, dispute resolution, resource management and legal education. Her book Declarations of Interdependence: A Legal Pluralist Approach to Indigenous Rights explores various aspects of claiming Native (Aboriginal) Title as a way to inspire a re-imagination of law, November 20 2020, "Ecological Jurisprudence and Indigenous Relational Ontologies: Beyond the ‘Ecological Indian’?,” From Environmental to Ecological Law (London: Routledge), https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3703825&download=yes, accessed 7-22-21] AB

Like the “noble savage” before it, the ecological Indian has been subjected to an extensive campaign of myth-busting, such as in Krech’s controversial monograph The Ecological Indian (1999). Although Krech asserts that first peoples are generally ecologists in the sense of understanding the connected systems of life (22), a heated academic debate has turned on the more narrow question of whether or not Indigenous peoples were actually conservationists (see Harkin and Lewis 2007), through the deliberate maintenance of ecosystem diversity (Hames 2007, 180). Krech documented cases where pre-Columbian peoples drove species to complete or local extinction through overhunting or uncontrolled use of fire or irrigation (1999, see also Diamond 2005). The role of humans in the mass extinction of megafauna in the Pleistocene is disputed (see Kelly and Prasciunas 2007), but more recent examples are less ambiguous, such as the moa and other birds in New Zealand and giant lemurs in Madagascar (Alvard 1994). The literature sometimes shows contains accounts of what appear to be wasteful practices: for example, Inuit kills of uncountable numbers of caribou in the 1910s, removing only the skin, tongue and spinal sinew (Jenness 1957, 71), or Cree and Chipewyan in the eighteenth century killing more buffalo than they could consume (Hearne cited in Brightman 1993). Other scholars contend that historic conservation is often epiphenomenal; that is, preservation of biodiversity is a function of population density, technological capacity and opportunities or desire for trade, rather than long-term planning (Alvard 1994, 133). If so, argues Raymond Hames, once firearms and increased demand from trade arrive, overharvesting could become a problem (2007, 181). Moreover, rather than see these incidents as anomalies within an Indigenous conservation ethic, some authors argue that it is the spiritual, ecosocial lifeworlds of peoples, even their deep respect for wildlife, that can produce counter-conservation outcomes, as defined by Western environmentalism. Where hunting is part of a reciprocal human-animal relationship, the success of the hunt results from the animals’ decision to gift themselves, and requires respect to be shown to the animals (or their spirit master) (Nadasdy 2007); where the proper ceremonies or practices are performed (for example, prayers, offerings, disposal of remains), the resource is infinitely renewable—for some because the animals would reincarnate (Johnson Gottesfeld 1994, 447; Krech 1999, 204). In the Yukon, a contemporary “catch and release” program where smaller fish are returned to the water was seen by elders to insult the fish because it effectively rejected their gift (Washbrook 19964, 21–22). A similar concern for offending the spirit master embroiled Innu and provincial resource managers in a recent dispute over caribou/atiku conservation: the Innu insisted that it was their abandonment of hunting, or hunting disrespectfully, that was causing the atiku to “leave”; the solution is then not to hunt less (the choice pursued through the hunting ban imposed by the government of Newfoundland and Labrador) but to renew the hunt with the proper protocol (Blaser 2016). Brightman concurs that for the Rock Cree in the 1700s, “[i]t was failure to kill all the animals offered that would jeopardize future hunting. . . . To kill all the animals possible . . . is an act of love and gratitude” (1993, 290). He argues, as does Krech, that an ethic of restraint—taking only what you need—or an understanding of finite resources, came from Cree encounters with Euro-American resource managers in the nineteenth and twentieth centuries, even if it was incorporated within the existing paradigm of respect owed to the animals (1993, 308–309; Krech 1999, 206).

#### The aff relies on violent essentialism that violates indigenous humanity.

Rodrigue-Allouche 15, MA Uppsala, Dept of Archaeology and Ancient History, (Sarah, “Conservation and Indigenous Peoples The adoption of the ecological noble savage discourse and its political consequences, Proquest Theses)//BB

As shown above through colonisation, indigenous peoples have been conceived as biologically inferior to White people, in an ethnical hierarchy and justified by so-called science. In the late 20th century, as scientific racism was discredited, another cultural stereotype started to emerge; the idea that culturally, Indigenous peoples are closer to Nature. But this idea might only be another display of essentialism.

1. Indigenous peoples and their environment: intentional or epiphenomenal conservation?

The idea that indigenous peoples respect their environment probably stem from the fact that most environmental degradation was caused by state societies whereas hunter-gatherer tribes certainly had less impact (see Borgerhoff Mulder and Coppolillo 2005). Besides, comparative studies have shown a correlation between the presence of indigenous peoples and high biodiversity whereas the presence of non-indigenous is correlated to low biodiversity (Redford and Robinson 1987). However, it is unavoidable to ask whether this is intentional or simply a consequence of a certain lifestyle correlated to a low population density and a low access to technology. Indeed, anthropologist Eugene S. Hunn was the first scholar to emphasise the intentionality factor in conservation; in a 1982 article he distinguished epiphenomenal (or side-effect) conservation from intentional conservation. In 2000, anthropologist Eric Alden Smith and forester Mark Wishnie followed Hunn’s lead and defined the term ‘conservation’ as actions preventing or mitigating biodiversity loss and designed to do so. Smith and Wishnie (2000: 493) in a review of existing research concluded that intentional conservation amongst indigenous peoples or what they called ‘voluntary conservation’ is rare. Below, I will review the debate around epiphenomenal conservation according to Hunn’s definition. In 1987, Redford and Robinson, compared hunting yields of sixteen native groups in the Amazon to six Peruvian and Brazilian backwoodsmen. Their study demonstrated that colonists had hunted a more limited number of species and had a more negative impact on the game populations because of factors such as a greater population density, catering to extra local demand, and a more efficient technology. On the other hand, because Native Amazonians took a wider variety of game, they had a less significant impact on game populations than colonists. It is very hard to assess whether this case is one of intentional or epiphenomenal conservation. In effect, it is ethically problematic to decide for other peoples if their practices constitute conscious choices or are simply necessary. I wish to advocate to keep in mind when reading such data that Indigenous communities are constituted of many individuals who each have different preferences and understandings of the world; and not to deny individuality to those who belong to Indigenous tribes. The debate on epiphenomenal vs intentional conservation intensified among the scholarly community when American anthropologist Shepard Krech III published a book aiming at debunking the idea of ecological-friendliness among Indigenous peoples. He postulated that Native Americans did not follow conservation practices before contact with Whites and overused resources during the contact period. Krech concluded that although Native Americans understood complex environmental interactions, they made no systematic efforts to conserve game species. Researchers in anthropology, biology and archaeology have since been debating about indigenous peoples and conservationist practices. In 1994, Allyn MacLean Stearman declared that the idea of ecological nobility was due to a few ethnographic cases that had been indiscriminately generalized to all indigenous peoples (Stearman 1994: 2). I agree with Stearman that generalisations do not form the basis of sound conclusions. Indeed, anthropologist Michael S. Alvard researching the evolution of human behaviour demonstrated that conservation most likely occurs under restricted circumstances. Using foraging theory in order to determine the hunting preferences of the Piro hunters in the Amazonian Peru, Alvard stated that Piro hunters make decisions consistent with foraging theory predictions 25 and do not hesitate to kill game identified as vulnerable to over-hunting (1993). Alvard (idem.) stresses that although indigenous peoples have an intimate knowledge of their environment, there is not enough empirical evidence to state that they use this knowledge in order to maintain equilibrium within the ecosystems surrounding them or to sustain their resources. In 2002, the University of Wyoming hosted a conference entitled Re-figuring the ecological Indian which led to the publication of a volume edited by Harkin and Lewis (2007). Many supported Krech’s claim that Native American practices were not aimed at conservation of resources. American social anthropologist Ernest S. Burch who had been doing research on the historic social organization of the Eskimo peoples in the Artic, notably demonstrated that Native Alaskan hunters drove a number of species to local extinction (Burch 2007). Burch concluded that nearly all groups harvested sustainably until the arrival of Europeans, but sustainability was un-intended. The introduction of breech loading rifles and the high trade value placed on local hides and furs led to cases of over-harvesting. Hence, Burch (idem.) supports the hypothesis of epiphenomenal conservation. But is indigenous technological efficiency really limited? If epiphenomenal conservation is a consequence of limited technology, it is essential to assess the efficiency of indigenous weapons. In 1978, anthropological Eric Ross fostered a controversy when he advanced that traditional indigenous hunting technology can be more efficient than modern western technology and that shotguns have reduced the efficiency with which certain important animals can be killed (quoted in Yost and Kelley 1983). If Ross’s statement is correct it supports the view that Indigenous peoples are intentional conservationists because they do possess the technology to overkill. Many anthropologists have since published data to counteract Ross and assert that indigenous technology is less efficient and does not allow hunters to kill the same species of animals that a shotgun would11 . For instance, Hames responded with extensive data indicating again that the shotgun is a far more efficient weapon than the bow (quoted in Yost and Kelley 1983). However, despite the controversy it can be established that the efficiency of indigenous weapons’ efficiency is undoubtable. In 1979, Chagnon and Hames demonstrated that the bow and arrow are quite adequate to provide population with sufficient levels of protein (idem.). In the same vein, Yost and Kelley (1983) were the first anthropologists to advance data supporting the efficiency of the blowgun and spear as I will develop in the next part. The fact that many indigenous societies rely on common-property regimes could also strengthen the hypothesis of epiphenomenal conservation is also strengthened. Indeed, common-property regimes might encourage a wise utilisation of resources. For instance, anthropologist Flora Lu conducted fieldwork among the Huaorani of Ecuador who function on a common property regime in which people are free to choose any available location to clear a plot of land for a garden (Lu 2001: 433), and concluded that when people live in small sub-populations of closely related kin, they are much more accountable to each other (Lu Holt 2001: 439) – a situation which probably encourages the preservation of resources and thus indirectly fosters conservationist practices. Common-property regimes could thus result in epiphenomenal conservation; although in 1968, American economist Garrett Hardin asserted that in a situation of open-access resources, depletion would soon occur (Olstrom 1990, 2005; Berkes et al. 2000; Berkes 2004; Olsson et al 2004; Barthell et al 2013b; Ruiz-Mallén and Corbera 2013). Although indigenous conservationist practices may seem to be cases of epiphenomenal conservation, a few famous case-studies of indigenous resource management attest that indigenous communities can be deliberate conservationists. One of them was published by American anthropologist and ethnobiologist Eugene Hunn and colleagues (Hunn et al. 2007) and relates the traditional gull-eggs harvests in Glacier Bay National Park and Preserve in Alaska, indicating that the 11 Beckermann, Good, Nietschmann and Vickers all reacted promptly in Current Anthropology (Volume 19, 1978) to contradict his contention that traditional technology was more effective than the shotgun 26 Huna Tlingit peoples possess an extensive knowledge and understanding of the glaucous-winged gull nesting biology and behaviour. Traditional gull-eggs harvests seem to represent a case of intentional conservation. Another case-study of intentional conservation is Harvey A. Feit’s presentation of conservationist hunting practices of the Waswanipi Cree peoples. An essential component of Waswanipi’s cosmology is the north wind spirit, the chuetenshu, who provides men with enough to eat as long as they respect other species. Here, the link between Waswanipi’s cosmology and the sustainable use of resources is obvious, as Feit emphasises that the hunter must act responsibly towards the game and the north wind spirit (Feit 1973: 76). Waswanipi hunting seems well to be a case of deliberate conservation because hunters possess the skill and technology to kill many animals but it is part of their responsibilities to abstain from killing more than necessary, and not to kill for enjoyment or prestige (idem.). Overall it is important to bear in mind that conservation can only occur when people are aware of resource scarcity, which is far from being the rule. Indeed, anthropologist Natalie Smith conducted interviews among the Machiguenga people in the Peruvian Amazon to understand their management patterns. When asked why the amount of game had decreased around the village, Machiguenga men interviewed replied that animals had been scared or that they were hiding. Many people declared that the amount of animals had remained the same or increased, simply they were further away from the village (Smith 2001: 435). Moreover, although the fallow time had significantly decreased these past decades, when asked about the decreasing yields, informants asserted that poor seeds or spiritual contamination were responsible for poor yields and not soil problems. Smith also interviewed the men hunters to find out if they avoided killing pregnant and younger animals, but the informants replied they could not make any distinction (idem., p. 446). Smith makes it clear that the Machiguenga are not conservationists; it is no criticism but simply a fact that the Machiguenga lack the social structure and information necessary that would enable them to carry out informed conservation. This is common to many indigenous societies which lack awareness of resource scarcity and thus where conservation cannot exist. Indeed, Lu Holt (2001: 432), in connection to her fieldwork with the Huaorani of Ecuador, wrote that she was repeatedly told by the community that no resources were rare or scarce. On the basis of the review I gave above, I contend that it is impossible to generalise over the question of intentional or epiphenomenal conservation. It seems that each indigenous society constitutes a unique case. Though indigenous communities have institutions in place to manage resources sustainably, it is unclear to what degree this can be called intentional conservation or not; these practices also rely on very distinctive cosmologies and social negotiations. Thus, conservation does bring a foreign concept in indigenous cosmologies, as I will develop further later. But before going into this I want to stress that indigenous peoples are not conservationists but merely humans.

2. Indigenous peoples, merely humans

A broad scholarship has demonstrated cases of environmental destruction among indigenous peoples. In 1985, American anthropologist A. Terry Rambo claimed that the Semang, a nonindustrial small-scale society of Peninsular Malaysia, affected their environment in some ways as much as or even more than industrial societies. Other scholars have raised case-studies to demonstrate that environmental destruction is a common feature among human societies, whether indigenous or not., world-famous American cultural geographer Jared Diamond presented well-documented examples of environmental indifference or destruction by tribal peoples in his book Collapse (2005). In the contemporary controversy around indigenous peoples and ecological nobility, two sides emerged: some people use data demonstrating that indigenous peoples have wreaked havoc on their environments in order to dispossess them of their rights, whom Diamond qualifies of ‘rac- 27 ists’, while others reject such scholarship because it threatens Indigenous peoples’ status of ecological angels (Diamond 2005: 8-9). Diamond acknowledges that indigenous peoples do not like to be told that their ancestors caused damage to the ecosystems because it seems that this assertion prejudices their rights to land ownership (idem.). However, although it has become politically incorrect to assert that indigenous populations wrecked damage on their environment, this fact simply points out our common humanity. The interest of Diamond’s work lies in its clear emphasis that all human societies share the same human traits, that very different societies located in different times and spaces have had negative impacts on their environments, and oftentimes were powerless over their own impacts. Indigenous peoples do not fundamentally differ from modern First World peoples; indeed, managing environmental resources has always been a challenge since mankind developed inventiveness and hunting skills around 50 000 years ago and wherever humans settled, large animals which had evolved without fear of the human species underwent destruction (Diamond 2005: 9). It is paramount to understand what being human entails, no matter where one originates from. By emphasising our common humanity, researchers’ work can help tearing apart essentialism.

#### The myth of the ecological Indian causes authenticity testing, romanticization, and is demarcated by Euro-American standards which ignore the historical contingency of Indigenous practices.

Anker et al. 20 [Kirsten Anker, teaches property, legal theory and Aboriginal law/Indigenous legal traditions at McGill University, with research interests extending also to evidence, dispute resolution, resource management and legal education. Her book Declarations of Interdependence: A Legal Pluralist Approach to Indigenous Rights explores various aspects of claiming Native (Aboriginal) Title as a way to inspire a re-imagination of law, November 20 2020, "Ecological Jurisprudence and Indigenous Relational Ontologies: Beyond the ‘Ecological Indian’?,” From Environmental to Ecological Law (London: Routledge), https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3703825&download=yes, accessed 7-22-21] AB

One final concern about the “ecological Indian” is political; that is, the image is purposefully adopted by both Indigenous and non-Indigenous actors because of its rhetorical power, but it can also backfire because it becomes an impossible ideal against which peoples are judged as either corrupted or inauthentic (Conklin and Graham 1995, 704). Thus, in cases where Indigenous peoples have come into conflict with environmentalists—the Makah whale hunt in Washington state or the dispute between Indigenous Survival International and Greenpeace over sealing are high-profile examples—those opposing them decry a “loss of culture” or flip the stereotype to characterize Indigenous culture as “savage, selfish and harmful” (Smithers 2015, 90). This is all the more so when Indigenous polities make decisions to achieve some kind of economic justice by developing their lands in ways that are depleting or polluting (Smithers 2015). What persists in the story of Indigenous peoples having either “lost” their ecological purity, or “found” a conservation ethic through non-Indigenous environmentalism, is a myth of a timeless, pre-political state of nature. Whether noble or ignoble, these constructions of Indigenous difference come at the expense of attention to the creativity and historical contingency of Indigenous practices and conceptual models on the ground, and sideline ways in which elements of Indigenous culture and politics can be supported by allies to help further biocultural resurgence. Paul Nadasdy argues that the categorization of Indigenous practices as either conservationist or non-conservationist says more about Euro-American or Canadian standards of environmentalism than about the perspectives of Indigenous peoples themselves. In his account of equivocal Kluane support for wolf cull in the Yukon in the 1990s—largely because of their negative impact on caribou and moose populations—that support, together with assertions by the Kluane of the totemic and spiritual significance of wolves, confounded the conservationist spectrum in which either the wolves are sacred and/or persons to whom respect is owed, or they can be shot for utilitarian reasons (Nadasdy 2005, 317–321). Like the rest of humanity, Indigenous peoples make their way in the world as they encounter it, and make their world through the way they engage with it: that may include spirit masters and ecosocial relationalities, as well as complex state bureaucracies, operating within a neocolonial logic that affects their ability to access their lands, and patterns of discourse containing tropes like the ecological Indian. The challenge, as Gregory Smithers puts it, is to give up the satisfying legends and start seeing—and negotiating with—Indigenous peoples as “active political agents working to nurture families, communities, and ecosystems” (2015, 95).

#### 1.) Having such a vague definition on what indigenous knowledge is makes solvency impossible

#### -Big pharma will use ambiguity to maintain Ip protections

#### Reducing IP rights aren’t quick enough to help the pandemic – legal battles slow the process – experts agree

Smith 05/05

(Laura Smith-Spark; Newsdesk Editor, CNN Digital; (05-05-21) Rich nations urged to share vaccine knowledge while WTO debates waiving patents; CNN; <https://www.cnn.com/2021/05/05/world/covid-19-vaccine-patents-wto-intl/index.html>; CKD)

But even as public pressure grows, some experts argue that handing over the IP rights for Covid-19 vaccines won't necessarily mean that more can be rapidly produced worldwide at large scale. US infectious diseases chief Anthony Fauci [told the UK's Financial Times](https://www.ft.com/content/2f41b122-5738-4707-a822-0d79276710c5) on Monday that he was not convinced that forcing companies to share their intellectual property was the most effective approach, warning that legal battles could slow the process. "Going back and forth, consuming time and lawyers in a legal argument about waivers -- that is not the endgame. People are dying around the world and we have to get vaccines into their arms in the fastest and most efficient way possible," he said.

#### Negotiations on a waiver will take too long

Mercurio 06-24

(Bryan Mercurio; Law Prof. at The Chinese University of Hong Kong; (06-24-21) The IP Waiver for COVID-19: Bad Policy, Bad Precedent; IIC on Springer Link; <https://link.springer.com/article/10.1007/s40319-021-01083-5>; CKD)

On 5 May 2021, the US reversed its position and announced that it would support a waiver for COVID-19 vaccines.[Footnote6](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn6) To be clear, this does not mean that the US supported the waiver as proposed by India and South Africa. Instead, the US has simply agreed to negotiate the perimeters of a waiver. Others, including the European Union (EU), Canada, Australia, Norway, Switzerland, the United Kingdom (UK) and even leading developing countries such as Brazil, Chile and Mexico remain opposed or lukewarm on the waiver.[Footnote7](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn7) The US dropping opposition does not mean the concerns of other Members will simply disappear – one would hope that these nations opposed the waiver for valid reasons and did not simply blindly follow the US. Indeed, many of the above-listed Members remain unconvinced that even such a draconian step as a waiver of IPRs would accomplish the goal of increased vaccine production.[Footnote8](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn8) For its part, the EU continues to favour an approach which makes better use of existing flexibilities available in the TRIPS Agreement.[Footnote9](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn9) Thus, those expecting quick agreement on the waiver will be disappointed. Negotiations at the WTO are always difficult and lengthy, and US Trade Representative Katherine Tai acknowledged that the “negotiations will take time given the consensus-based nature of the institution and the complexity of the issues involved”.[Footnote10](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn10) Issues of negotiation will include the scope of the waiver. Whereas the original proposal and its amended form extend the waiver beyond patents and vaccines to include nearly all forms of IP (i.e. copyright,[Footnote11](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn11) industrial designs and trade secrets) as well as to all “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19”[Footnote12](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn12) (with no requirement on how or the extent to which they are related to or useful in combatting COVID-19), the US and others seem to support a waiver limited to patents and vaccines.[Footnote13](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn13) The length of the waiver will also be a contentious negotiating issue, with proponents seeking a virtual indefinite waiver lasting until the Membership agrees by consensus that it is no longer required – meaning even a single Member’s objection to ending the waiver would mean the waiver continues to remain in force[Footnote14](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn14) – as will the request that any action claimed to be taken under the waiver is outside the scope of the WTO’s dispute settlement mechanism.[Footnote15](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn15) These provisions will almost certainly be opposed by other Members, who would perhaps agree to a time-limited waiver which could be extended rather than an unchallengeable indefinite waiver which will be difficult to reverse. The proposal also fails to mention anything in relation to transparency and notification requirements and lacks safeguards against abuse or diversion. These points will likely also prove contentious in the negotiations. With so many initial divergences and as yet undiscussed issues, the negotiations at best could be completed by the time of the next WTO Ministerial Conference, scheduled to begin on 20 November 2021. There is precedent in this regard, as previous TRIPS negotiations involving IP and pharmaceuticals were not fully resolved until the days before the Ministerial Conferences (in 2003 and 2005).[Footnote16](https://link.springer.com/article/10.1007/s40319-021-01083-5#Fn16) There is also a chance that the negotiations will continue past the calendar year 2021. The chance for a swift negotiation diminished with the release of a revised proposal by India and South Africa on 22 May 2021. As mentioned above, the proposal contains no limit as to product coverage, scope, notification requirements or safeguards and proposes that the waiver will remain in effect for what could be an indefinite period. This was not a proposal designed to engender quick negotiations and a solution. Instead, the proposal perhaps reveals India’s and South Africa’s true intent to use the COVID-19 pandemic as an excuse to roll-back IPRs rather than a good-faith effort to rapidly increase access to lifesaving vaccines and treatments around the world.

#### -lack of clarity makes enforcement of the plan impossible

#### -don’t let them stick a new definition of their plan in the 1ar, they were shifty in CX and their ev doesn’t back up their new def at all