## 1NC – CP

#### CP: I endorse the entirety of the 1AC minus its call to reduce intellectual property protection for traditional medicines.

## 1NC – DA

#### Biotech industry strong now.

Cancherini et al. 4/30 [(Laura, Engagement Manager @ McKinsey & Company, Joseph Lydon, Associate Partner @ McKinsey & Company, Jorge Santos Da Silva, Senior Partner at McKinsey & Company, and Alexandra Zemp, Partner at McKinsey & Company), “What’s ahead for biotech: Another wave or low tide?“, McKinsey & Company, 4-30-2021, https://www.mckinsey.com/industries/pharmaceuticals-and-medical-products/our-insights/whats-ahead-for-biotech-another-wave-or-low-tide] TDI

As the pandemic spread across the globe in early 2020, biotech leaders were initially pessimistic, reassessing their cash position and financing constraints. When McKinsey and BioCentury interviewed representatives from 106 biotech companies in May 2020,4 half of those interviewed were expecting delays in financing, and about 80 percent were tight on cash for the next two years and considering trade-offs such as deferring IPOs and acquisitions. Executives feared that valuations would decline because of lower revenue projections and concerns about clinical-trial delays, salesforce-effectiveness gaps, and other operational issues.

Belying this downbeat mood, biotech has in fact had one of its best years so far. By January 2021, venture capitalists had invested some 60 percent more than they had in January 2020, with more than $3 billion invested worldwide in January 2021 alone.5 IPO activity grew strongly: there were 19 more closures than in the same period in 2020, with an average of $150 million per raise, 17 percent more than in 2020. Other deals have also had a bumper start to 2021, with the average deal size reaching more than $500 million, up by more than 66 percent on the 2020 average (Exhibit 3).6

What about SPACs?

The analysis above does not include special-purpose acquisition companies (SPACs), which have recently become significant in IPOs in several industries. Some biotech investors we interviewed believe that SPACs represent a route to an IPO. How SPACs will evolve remains to be seen, but biotechs may be part of their story.

Fundamentals continue strong

When we asked executives and investors why the biotech sector had stayed so resilient during the worst economic crisis in decades, they cited innovation as the main reason. The number of assets transitioning to clinical phases is still rising, and further waves of innovation are on the horizon, driven by the convergence of biological and technological advances.

In the present day, many biotechs, along with the wider pharmaceutical industry, are taking steps to address the COVID-19 pandemic. Together, biotechs and pharma companies have more than 250 vaccine candidates in their pipelines, along with a similar number of therapeutics. What’s more, the crisis has shone a spotlight on pharma as the public seeks to understand the roadblocks involved in delivering a vaccine at speed and the measures needed to maintain safety and efficacy standards. To that extent, the world has been living through a time of mass education in science research and development.

Biotech has also benefited from its innate financial resilience. Healthcare as a whole is less dependent on economic cycles than most other industries. Biotech is an innovator, actively identifying and addressing patients’ unmet needs. In addition, biotechs’ top-line revenues have been less affected by lockdowns than is the case in most other industries.

Another factor acting in the sector’s favor is that larger pharmaceutical companies still rely on biotechs as a source of innovation. With the top dozen pharma companies having more than $170 billion in excess reserves that could be available for spending on M&A, the prospects for further financing and deal making look promising.

For these and other reasons, many investors regard biotech as a safe haven. One interviewee felt it had benefited from a halo effect during the pandemic.

More innovation on the horizon

The investors and executives we interviewed agreed that biotech innovation continues to increase in quality and quantity despite the macroeconomic environment. Evidence can be seen in the accelerating pace of assets transitioning across the development lifecycle. When we tracked the number of assets transitioning to Phase I, Phase II, and Phase III clinical trials, we found that Phase I and Phase II assets have transitioned 50 percent faster since 2018 than between 2013 and 2018, whereas Phase III assets have maintained much the same pace. There could be many reasons for this, but it is worth noting that biotechs with Phase I and Phase II assets as their lead assets have accounted for more than half of biotech IPOs. Having an early IPO gives a biotech earlier access to capital and leaves it with more scope to concentrate on science.

#### IP protections for traditional knowledge are key to innovation

Ngatcha 20 [(Beatrice T., lawyer and patent agent in Lavery’s intellectual property group, patent agent registered to practice in Canada and the United States,member of the Quebec Bar, doctoral degree in chemistry from *Université Laval* and post-doctoral fellow at the National Research Council in Ottawa) “Natural Products and Pharmaceutical Innovations: What are the Patent Options?” Lavery, 5/29/2020] JL

Natural products play an important role in pharmaceutical innovation. They are active components in many medicines. For example, nearly half of the small molecules used to treat cancer are natural products or directly derived from natural products.[1](https://www.lavery.ca/en/publications/our-publications/3225-natural-products-and-pharmaceutical-innovations-what-are-the-patent-options-ip-intellectual-property.html#01) They are also components of vaccines.

The pharmaceutical industry is constantly seeking access to natural products and the traditional knowledge associated with them. These include plants (roots, bark, leaves), micro-organisms (terrestrial and marine), toxins, venoms and other natural biological agents.

In the current race to develop a drug and/or vaccine against COVID-19, natural products or derivatives are surely worth considering as a starting point.

The harvesting of natural resources for use by the pharmaceutical industry is usually carried out by partners such as traditional healers, farmers, academics or businesses. Thus, the process usually involves several stakeholders, including providers and users of natural resources and associated traditional knowledge, which are often located in different parts of the world.

Fair and equitable collaboration in such a context requires well-developed collaboration agreements and access and benefit-sharing agreements. Various instruments of international law encourage the signing of such agreements, including:

The Convention on Biological Diversity (CBD), which recognizes the sovereignty of states over their natural resources. The CBD sets out fundamental principles to regulate access and benefit-sharing, including that access to natural resources, their use and the sharing of benefits arising from them should be based on “mutually agreed terms.”[2](https://www.lavery.ca/en/publications/our-publications/3225-natural-products-and-pharmaceutical-innovations-what-are-the-patent-options-ip-intellectual-property.html#02)

The Nagoya Protocol covers the sharing of the results of research and development, the payment of royalties and joint ownership of intellectual property (IP) rights.[3](https://www.lavery.ca/en/publications/our-publications/3225-natural-products-and-pharmaceutical-innovations-what-are-the-patent-options-ip-intellectual-property.html#03)

The World Intellectual Property Organization (WIPO) has developed a guide to assist providers and users of natural resources and associated traditional knowledge in the negotiation and establishment of IP clauses in access and benefit-sharing agreements. The guide describes how IP rights can be exploited and managed to achieve the desired objectives, and how the benefits arising from the use can be created and shared in a fair and equitable manner, thereby promoting the conservation and use of biodiversity.[4](https://www.lavery.ca/en/publications/our-publications/3225-natural-products-and-pharmaceutical-innovations-what-are-the-patent-options-ip-intellectual-property.html#04)

Furthermore, research and development activities in the pharmaceutical industry are known to be associated with high risk and high investment costs. Indeed, it is widely recognized that the process to develop a drug can take up to 15 years, only about 16% of molecules entering the clinical phase will be approved, and only 1 in 5 marketed drugs generates revenues equal to or greater than the research and development costs involved.[5](https://www.lavery.ca/en/publications/our-publications/3225-natural-products-and-pharmaceutical-innovations-what-are-the-patent-options-ip-intellectual-property.html#05)

In the pharmaceutical industry, intellectual property, especially patents and data protection, is thus considered an essential instrument for securing the economic benefits of an innovation.

Efforts in this intense period of development of a drug/vaccine against COVID-19 are of course focused on the technical aspects directly related to research and development. Nevertheless, those involved should not lose sight of the importance of collaboration agreements and access and benefit-sharing agreements.

#### 50% of medicine comes from IK

Eiland 08 [Dr. Eiland received a doctorate in Oriental Archaeology from Oxford University and an LLM from the Munich Intellectual Property Law Center], “Patenting Traditional Medicine”, Nomos Verlagsgesellschaft mbH & Co. KG, pg. 7-10, 2008 //SLC PK

* TM = traditional medicine

In 1982, it was estimated that about 50 % of all filled prescriptions in the US originated from drugs that were derived – one way or another – from natural substances. This generated US sales of about 20 billion.4 Another estimate found that 3/4 of the plants used in prescription drugs originally came to the attention of drug companies because of their use in TM.5 In 1995, the worldwide market value of TM derived pharmaceuticals was estimated to be $43 billon.6 While one could argue about the precise values, TM has significant pharmaceutical applications. Drug companies are interested in acquiring TM, both natural substances, as well as the knowledge about how to use them.

#### Biopharmaceutical innovation is key to prevent future pandemics and bioterror.

Marjanovic and Feijao 20 [(Sonja Marjanovic, Ph.D., Judge Business School, University of Cambridge. Carolina Feijao, Ph.D. in biochemistry, University of Cambridge; M.Sc. in quantitative biology, Imperial College London; B.Sc. in biology, University of Lisbon.) "How to Best Enable Pharma Innovation Beyond the COVID-19 Crisis," RAND Corporation, 05-2020, https://www.rand.org/pubs/perspectives/PEA407-1.html] TDI

As key actors in the healthcare innovation landscape, pharmaceutical and life sciences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges. The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a bioterrorism context.1 The general threat to public health that is posed by antimicrobial resistance is also well-recognised as an area in need of pharmaceutical innovation. Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and competition within the industry. However, the expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an indispensable partner in the search for solutions that save lives. This perspective argues for the need to establish more sustainable and scalable ways of incentivising pharmaceutical innovation in response to infectious disease threats to public health. It considers both past and current examples of efforts to mobilise pharmaceutical innovation in high commercial risk areas, including in the context of current efforts to respond to the COVID-19 pandemic. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to the search for effective medicines, vaccines or diagnostics is essential for socially responsible companies in the sector. 2 It is therefore unsurprising that we are seeing industry-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing compounds to assess their utility in the fight against COVID19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating trials for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.3,4 Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accelerate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions.3,5,6 The primary purpose of such innovation is to benefit patients and wider population health. Although there are also reputational benefits from involvement that can be realised across the industry, there are likely to be relatively few companies that are ‘commercial’ winners. Those who might gain substantial revenues will be under pressure not to be seen as profiting from the pandemic. In the United Kingdom for example, GSK has stated that it does not expect to profit from its COVID-19 related activities and that any gains will be invested in supporting research and long-term pandemic preparedness, as well as in developing products that would be affordable in the world’s poorest countries.7 Similarly, in the United States AbbVie has waived intellectual property rights for an existing combination product that is being tested for therapeutic potential against COVID-19, which would support affordability and allow for a supply of generics.8,9 Johnson & Johnson has stated that its potential vaccine – which is expected to begin trials – will be available on a not-for-profit basis during the pandemic.10 Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. Many public health threats (including those associated with other infectious diseases, bioterrorism agents and antimicrobial resistance) are urgently in need of pharmaceutical innovation, even if their impacts are not as visible to society as COVID-19 is in the immediate term. The pharmaceutical industry has responded to previous public health emergencies associated with infectious disease in recent times – for example those associated with Ebola and Zika outbreaks.11 However, it has done so to a lesser scale than for COVID-19 and with contributions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still low.12 There are important policy questions as to whether – and how – industry could engage with such public health threats to an even greater extent under improved innovation conditions.

#### Extinction – defense is wrong

Piers Millett 17, Consultant for the World Health Organization, PhD in International Relations and Affairs, University of Bradford, Andrew Snyder-Beattie, “Existential Risk and Cost-Effective Biosecurity”, Health Security, Vol 15(4), http://online.liebertpub.com/doi/pdfplus/10.1089/hs.2017.0028

Historically, disease events have been responsible for the greatest death tolls on humanity. The 1918 flu was responsible for more than 50 million deaths,1 while smallpox killed perhaps 10 times that many in the 20th century alone.2 The Black Death was responsible for killing over 25% of the European population,3 while other pandemics, such as the plague of Justinian, are thought to have killed 25 million in the 6th century—constituting over 10% of the world’s population at the time.4 It is an open question whether a future pandemic could result in outright human extinction or the irreversible collapse of civilization.

A skeptic would have many good reasons to think that existential risk from disease is unlikely. Such a disease would need to spread worldwide to remote populations, overcome rare genetic resistances, and evade detection, cures, and countermeasures. Even evolution itself may work in humanity’s favor: Virulence and transmission is often a trade-off, and so evolutionary pressures could push against maximally lethal wild-type pathogens.5,6

While these arguments point to a very small risk of human extinction, they do not rule the possibility out entirely. Although rare, there are recorded instances of species going extinct due to disease—primarily in amphibians, but also in 1 mammalian species of rat on Christmas Island.7,8 There are also historical examples of large human populations being almost entirely wiped out by disease, especially when multiple diseases were simultaneously introduced into a population without immunity. The most striking examples of total population collapse include native American tribes exposed to European diseases, such as the Massachusett (86% loss of population), Quiripi-Unquachog (95% loss of population), and theWestern Abenaki (which suffered a staggering 98% loss of population).

In the modern context, no single disease currently exists that combines the worst-case levels of transmissibility, lethality, resistance to countermeasures, and global reach. But many diseases are proof of principle that each worst-case attribute can be realized independently. For example, some diseases exhibit nearly a 100% case fatality ratio in the absence of treatment, such as rabies or septicemic plague. Other diseases have a track record of spreading to virtually every human community worldwide, such as the 1918 flu,10 and seroprevalence studies indicate that other pathogens, such as chickenpox and HSV-1, can successfully reach over 95% of a population.11,12 Under optimal virulence theory, natural evolution would be an unlikely source for pathogens with the highest possible levels of transmissibility, virulence, and global reach. But advances in biotechnology might allow the creation of diseases that combine such traits. Recent controversy has already emerged over a number of scientific experiments that resulted in viruses with enhanced transmissibility, lethality, and/or the ability to overcome therapeutics.13-17 Other experiments demonstrated that mousepox could be modified to have a 100% case fatality rate and render a vaccine ineffective.18 In addition to transmissibility and lethality, studies have shown that other disease traits, such as incubation time, environmental survival, and available vectors, could be modified as well.19-2

## 1NC – CP

#### CP: Member nations of the World Trade Organization should establish a sui generis right for holders of traditional knowledge.

#### That solves the aff by preventing biopiracy while ensuring indigenous communities can use IP as an economic bargaining chip

Garcia 07 [(Javier, attorney at Perkins Coie LLP in Seattle, Washington, J.D. from Gonzaga University School of Law and B.A. from the University of Redlands) “Fighting Biopiracy: The Legislative Protection of Traditional Knowledge,” Berkeley La Raza Law Journal,” 3/2007] JL

The establishment of a sui generis right for holders of traditional knowledge would provide compensation for communities that do not otherwise qualify for patent protection. Under Article 8 of the TRIPS agreement, countries can adopt legislation to protect "sectors of vital importance to their socio-economic and technological development."'' 7 s A sui generis right could therefore be adopted in conjunction with domestic legislation as a catch-all provision pursuant to Article 8. The nature of a traditional knowledge sui generis right is detailed below.

Establishing a sui generis right for traditional knowledge holders could resolve problems stemming from patent law's limited term of protection. 7 6 Foremost among them is that certain forms of traditional knowledge may fall under the realm of public domain, and thus, be exempt from any patent protection. 7 Likewise, some traditional knowledge holders may also seek terms of protection that are incompatible with patent law, seek to prevent any sharing of their knowledge, or seek exclusive rights over their knowledge for an unlimited amount of time. 7 1 Such efforts would prove at odds with current patent law, which only rewards patent . . ... . '79 protection for a limited period of time to enable further innovations. Although a sui generis right could address some of these concerns, traditional knowledge holders will likely have to make sacrifices to avoid the misappropriation of their intellectual property rights. For example, the documentation of traditional knowledge will ultimately submit any documented traditional knowledge to the public domain. This may prove contradictory to the values of some traditional knowledge holders who wish to maintain ownership and control of their knowledge forever; nonetheless, it is an adaptation that must be made to avoid the exploitation of traditional knowledge. A traditional knowledge sui generis right could also overcome patent law's relative incompatibility with communal ownership. Confronting this hurdle is necessary since it may be against communal customs for an individual to own knowledge developed and modified over many generations.' Recognition of a sui generis right could also overcome barriers posed by international patent standards that require that an invention be new and subject to industrial applicability. I5 '

Finally, a sui generis right could modify patent law with respect to traditional knowledge holders to allow benefit sharing among communities not considered inventors under current patent law. For example, in 2004, the University of California, Berkeley, signed an agreement with the Samoan government to isolate from an indigenous tree the gene for a promising anti-AIDS drug and to share any royalties from sale of a gene-derived drug with the people of Samoa. 182 The agreement, signed by the prime minister of Samoa and U.C. Berkeley's Vice Chancellor for research, allocates Samoa's fifty percent share to the government, villages, and the families of healers who first shared the knowledge of how to use the plant. 18 Under the agreement, any commercial developer must "first negotiate an equitable benefit-sharing agreement with Samoa."' 184 This landmark agreement could be duplicated in Mexico under domestic legislation. Agreements like these may pose a problem given the amount of government corruption in Mexico and other 185 developing countries. Nevertheless, it may be the lesser of the two evils. Under domestic legislation or a sui generis right, compensation from patent royalties would be guaranteed at least to the State and would hopefully be spent in Mexico, rather than abroad. Furthermore, local government officials may be more entitled to compensation from profitable traditional knowledge than foreign, corporations.

An effective dispute resolution mechanism is necessary to make domestic legislation successful. First, it allows a country to establish jurisdiction over foreign companies that enter the country to extract resources. The mere existence of a dispute resolution process places foreign companies on notice that they are subject to jurisdiction and criminal or civil liability for violative conduct, such as environmental damage resulting from the excavation of resources, misappropriation of intellectual property rights, and civil rights violations. Currently, foreign companies are entering sovereign territories without permission, but governments do not have the legislation in place to regulate them effectively. 186 A dispute resolution mechanism will force entities to abide by the laws and regulations established by the proposed legislation.

The mechanism should provide a dispute resolution process for domestic conflicts and conflicts involving other sovereign states, thus requiring two levels of dispute-resolution. The first level should be for States to resolve disputes. The second level should provide a dispute-resolution mechanism for private parties who claim ownership of traditional knowledge, such as two tribal communities claiming ownership over the same traditional knowledge. 189 This level of dispute resolution will adjudicate intellectual property rights among all domestic entities, including indigenous communities, local inventors, corporations, or any other patent applicants claiming ownership of traditional knowledge.

The protection of traditional knowledge is vital to underdeveloped countries. Traditional knowledge is one of the few resources and bargaining chips these countries still retain. Accordingly, Mexico and other underdeveloped countries should protect themselves from the misappropriation of traditional knowledge that has already begun. Adopting domestic legislation provides the best means to regulate and control foreign entities seeking to extract and exploit traditional knowledge from vulnerable indigenous communities.

#### It competes – the CP is anti-topical action

IPTF 04 [(International Intellectual Property Institute, not-for-profit 501 corporation that provides education and training on intellectual property) “Is a Sui Generis System Necessary?” 1/14/2004] JL

WIPO and the WTO are in the process of establishing international rules for the protection of biodiversity. One of the key questions under consideration is whether or not to create a sui generis system to establish the norms and rules for protection. A “sui generis” system simply means “one that is of its own kind1 ”. In this case it refers to the creation of a new national law or the establishment of international norms that would afford protection to intellectual property dealing with genetic resources -or biodiversity - and the biotechnology that might result. It also refers to a law that might protect creations, inventions, models, drawings, designs, innovations contained in images, figures, symbols, petroglyphs, art, music, history and other traditional artistic expressions.

## 1NC – TFW

#### Our interpretation is that the resolution should define the division of affirmative and negative ground and offense. It was *negotiated* and *announced in advance*, providing both sides with a reasonable opportunity to prepare to engage one another’s arguments.

**Resolved denotes a proposal to be enacted by law**   
**Words and Phrases 1964** Permanent Edition   
Definition of the word “resolve,” given by Webster is “**to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;**” It is of **similar** force **to the word “enact,”** which is **defined** by Bouvier **as** meaning “**to establish by law**”.

#### Ought means should

Merriam Webster, No Date – Merriam Webster’s Learner’s Dictionary, “ought”, <http://www.learnersdictionary.com/definition/ought>  
ought /ˈɑːt/ verb  
Learner's definition of OUGHT [modal verb] 1 ◊ Ought is almost always followed by to and the infinitive form of a verb. The phrase ought to has the same meaning as should and is used in the same ways, but it is less common and somewhat more formal. The negative forms ought not and oughtn't are often used without a following to. — used to indicate what is expected They ought to be here by now. You ought to be able to read this book. There ought to be a gas station on the way. 2 — used to say or suggest what should be done You ought to get some rest. That leak ought to be fixed. You ought to do your homework.

#### Should requires legal effect

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record. [CONTINUES – TO FOOTNOTE] [13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### Member nations of the WTO are

Cal Chamber [“World Trade Organization,” California Chamber of Commerce] JL

The WTO and its 164 member nations is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified or approved in their parliaments or legislatures. The goal is to help producers of goods and services, exporters and importers conduct their business.

#### Reduce means

Cambridge n.d. [“Reduce,” Cambridge English Dictionary] JL

to become or to make something become smaller in size, amount, degree, importance, etc.:

#### Intellectual property protections are

USFG 14 [(US Mission to International Organizations in Geneva) “Key Forms of Intellectual Property Protection,” 4/24/2014] JL

The key forms of intellectual property protection are patents, copyrights, trademarks and trade secrets. Because intellectual property shares many of the characteristics of real and personal property, associated rights permit intellectual property to be treated as an asset that can be bought, sold, licensed or given away. Intellectual property laws enable owners, inventors and creators to protect their property from unauthorized use.

#### Medicine is

Lexico ND [(Lexico dictionary) https://www.lexico.com/definition/medicine] BC

The science or practice of the diagnosis, treatment, and prevention of disease (in technical use often taken to exclude surgery)

#### Vote negative to preserve limits and equitable division of ground – the resolution is the most predictable stasis point for debates, anything outside of that ruins prep and clash by allowing the affirmative to pick any grounds for debate. That greenlights a race away from the core topic controversies that allow for robust contestation, which favors the aff by making neg ground inapplicable, susceptible to the perm, and concessionary. Two additional impacts:

#### Accessibility – Cutting negs to every possible aff wrecks small schools, which has a disparate impact on under-resourced and minority debaters. Counter-interpretations are arbitrary, unpredictable, and don’t solve the world of neg prep because there’s no grounding in the resolution

#### Link turns their education offense – getting to the third and fourth level of tactical engagement is only possible with refined and well-researched positions connected to the resolutional mechanism. Repeated debates over core issues incentivize innovative argument production and improved advocacy based on feedback and nuanced responses from opponents.

#### Prefer our impact: they’ve skewed the game which necessarily comes first because it makes evaluating the aff impossible. The role of individual debate rounds on broader subject formation is white noise – *can you remember what happened in doubles of the Loyola tournament your junior year?* – individual rounds don’t affect our subjectivity, so fairness is the only impact your ballot can resolve. You should presume all their truth claims false because they have not been properly tested

#### They can’t get offense: we don’t exclude them, only persuade you that our methodology is best. Every debate requires a winner and loser, so voting negative doesn’t reject them from debate, it just says they should make a better argument next time.

#### Extra topical – voter because it infinitely explodes limits and justifies Frankenstein planks to skirt neg ground

## 1NC – Case

### Framing

1. **Moral uncertainty means preventing extinction should be our highest priority.  
   Bostrom 12** [Nick Bostrom. Faculty of Philosophy & Oxford Martin School University of Oxford. “Existential Risk Prevention as Global Priority.” Global Policy (2012)]  
   These reflections on **moral uncertainty suggest** an alternative, complementary way of looking at existential risk; they also suggest a new way of thinking about the ideal of sustainability. Let me elaborate.¶ **Our present understanding of axiology might** well **be confused. We may not** nowknow — at least not in concrete detail — what outcomes would count as a big win for humanity; we might not even yet **be able to imagine the best ends** of our journey. **If we are** indeedprofoundly **uncertain** about our ultimate aims,then we should recognize that **there is a great** option **value in preserving** — and ideally improving — **our ability to recognize value and** to **steer the future accordingly. Ensuring** that **there will be a future** version of **humanity** with great powers and a propensity to use them wisely **is** plausibly **the best way** available to us **to increase the probability that the future will contain** a lot of **value.** To do this, we must prevent any existential catastrophe.
2. **Reducing the risk of extinction is always priority number one.   
   Bostrom 12** [Faculty of Philosophy and Oxford Martin School, University of Oxford.], Existential Risk Prevention as Global Priority.  Forthcoming book (Global Policy). MP. [http://www.existenti...org/concept.pdf](http://www.existential-risk.org/concept.pdf)Even if we use the most conservative of these estimates, which entirely ignores the   possibility of space colonization and software minds, **we find that the expected loss of an existential   catastrophe is greater than the value of 10^16 human lives**.  **This implies that the expected value of   reducing existential risk by a mere one millionth of one percentage point is at least a hundred times the   value of a million human lives.**  The more technologically comprehensive estimate of 10  54 humanbrain-emulation subjective life-years (or 10  52  lives of ordinary length) makes the same point even   more starkly.  Even if we give this allegedly lower bound on the cumulative output potential of a   technologically mature civilization a mere 1% chance of being correct, we find that the expected   value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth   a hundred billion times as much as a billion human lives. **One might consequently argue that even the tiniest reduction of existential risk has an   expected value greater than that of the definite provision of any ordinary good, such as the direct   benefit of saving 1 billion lives.**  And, further, that the absolute value of the indirect effect of saving 1  billion lives on the total cumulative amount of existential riskâ€”positive or negativeâ€”is almost   certainly larger than the positive value of the direct benefit of such an action.

#### ROB is to vote for the better debater – anything else is arbitrary, self–serving, and impact justified – they haven’t justified how debate shapes subject formation – it doesn’t – the role of individual debate rounds is white noise – *can you remember what happened round () of () your senior year?*

1. **All of their impacts also appeal to the badness of suffering – more suffering is worse than less – proves magnitude is inevitably the impact filter – the Barker evidence is unresponsive if we win an internal link**

#### They shouldn’t garner offense from anything other than the consequences of the plan:

#### Solvency matters – justifies reading the racism bad framework, then asserting that the aff solves all of racism

#### No explanation of how this aff challenges policy debate broadly – that was above – if anything, negating the aff just pushes debaters to scoff at your arguments because of competitive incentives

#### Either debate can’t spill up to alter colonialist foreign policy more broadly OR no reason debate is key to their discursive offense – 1AC Vats 4 – we read blue

Conferences and workshops as well as collaborative projects which bring together senior and junior scholars play a significant role in cultivating and retaining Critical Race IP scholars. Finally, in concluding with a discussion of the decolonial turn, we offer a framework for moving beyond the radically unequal systems produced from the vantage point of law and economics, which has been historically complicit in intellectual property law’s theoretical and practical centering of whiteness. Decolonization, a process that began to unfold after World War II, is not only a physical process but an epistemological one, which requires addressing intellectual property’s embeddedness within practices and ideologies of modernity/coloniality as well as the connections between the latter and racism and neocolonialism. Here, we offer decolonization as a means of beginning to contemplate the remaking of intellectual property law, in ways that not only radically embrace Otherness but make space for non-European ways of thinking, making, and owning knowledge. As we imagine it, Critical Race IP is a space for creating models for the politics of reparation—not simply equal rights or distributive justice—through which oppressed groups can heal the wounds of racism and colonialism.

#### Off Dalley – begs the question of our internal links, which we’ll win are true – extinction outweighs impact turns this argument – suffering is a sliding scale and more of it is worse – there’s always value to life and it’s paternalistic to say otherwise

### Advantage

#### They can only leverage the amount of settler colonialism solved by the aff – alt causes – Chinese oppression of Uighurs, Turkey’s involvement in Syria, and Native Americans making $.60 to the dollar – plus they haven’t explained how reducing IP spills up to effect academia or change state behavior

#### Root cause argument doesn’t matter – voting aff doesn’t get rid of the settler state or change how foreign policy is structured writ large

#### The WTO is not an example of the international institution they criticize – decision making requires unanimous consensus, so it doesn’t privilege larger countries, and participation in it is voluntary

#### Circumvention – no brightline for what constitutes traditional knowledge – either pharmaceutical companies will pressure governments, so states have incentive to define traditional knowledge very narrowly and you don’t solve, or yes innovation link

#### Plan doesn’t solve resource extraction – even if corporations can’t patent traditional knowledge, they’ll still mine for minerals, oil, natural gas, etc.

#### Lots of indigenous knowledge they don’t solve for

Bruchac 14 [(Margaret, Coordinator, Native American & Indigenous Studies at the University of Pennsylvania, PhD in anthropology from the University of Massachusetts Amherst) “Indigenous Knowledge and Traditional Knowledge,” Encyclopedia of Global Archaeology, 2014] JL

Traditional Indigenous knowledge can be defined as a network of knowledges, beliefs, and traditions intended to preserve, communicate, and contextualize Indigenous relationships with culture and landscape over time. One might distinguish "knowledge" as factual data, "belief" as religious concepts, and "tradition" as practice, but these terms are often used imprecisely and interchangeably to describe Indigenous epistemologies. Indigenous knowledges are conveyed formally and informally among kin groups and communities through social encounters, oral traditions, ritual practices, and other activities. They include: oral narratives that recount human histories; cosmological observations and modes of reckoning time; symbolic and decorative modes of communication; techniques for planting and harvesting; hunting and gathering skills; specialized understandings of local ecosystems; and the manufacture of specialized tools and technologies (e.g., flintknapping, hide tanning, pottery-making, and concocting medicinal remedies).

#### Patents prevent biopiracy

Erstling 09 [(Jay, Emeritus Professor of Law at Mitchell Hamline School of Law, J.D., Cornell University Law School, 1974) “Using Patents to Protect Traditional Knowledge,” Texas Wesleyan Law Review, 2009] JL

Finally, while the patent system has been accused of facilitating biopiracy by tolerating third-party patenting of TK, using the patent system appropriately to protect TK can serve more to prevent biopiracy than to permit it. Biopiracy generally refers to the exploitation of traditional knowledge or genetic resources-typically by multinational companies-without the authorization of the holders of that knowledge, and/or the patenting of inventions based on traditional knowledge without the consent of the knowledge holders or payment of compensation.24 Several cases of alleged biopiracy, including patents granted for neem, turmeric, the enola bean, and quinoa, have aroused controversy and focused attention on how patenting can lead to unjust results.25 Although it is extremely difficult to estimate the extent to which biopiracy actually takes place in any particular country, protecting TK could provide some assurance against misappropriation by clarifying the duty that third parties owe to the holders of the knowledge when the knowledge has contributed to an invention that is the subject of a patent application.