# 2NR

# Round 4 – NC

### 1NC – OFF

#### CP Text: The member nations of the World Trade Organization ought to enforce compulsory licensing measures regarding medicines.

#### Compulsory license continues innovation AND checks back manufacturing capacity and scarcity of materials which a waiver doesn’t solve

**Ezell, 21,** “TRIPS Waiver on COVID-19 IP Rights Wouldn’t Help Vaccine Access; It Would Just Harm Innovation”, ITIF, Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF), Ezell holds a B.S. from the School of Foreign Service at Georgetown University, with an honors certificate from Georgetown’s Landegger International Business Diplomacy program, URL; <https://itif.org/publications/2021/03/09/trips-waiver-covid-19-ip-rights-wouldnt-help-vaccine-access>, KR

And while petitioners made this call on the alleged grounds of ensuring sufficient access to needed vaccines and therapeutics, their call for the suspension of every facet of IP rights on every conceivable COVID-19 related technology—even such as for copyrights and industrial designs—betrays the reality that the petitioners’ core goal isn’t really about access, but about undermining the global intellectual property rights system.

To be sure, the developed world needs to be fully committed to ensuring that the world’s citizens receive the COVID-19 vaccines and therapeutics they need. But this can be accomplished through structures such as licensing and product development partnerships, without requiring an abrogation of intellectual property rights. For instance, in February 2021, the Biden administration announced it would contribute up to $4 billion to COVAX, a vaccine alliance seeking to distribute COVID-19 vaccines to 92 low- and middle-income countries. COVAX aims to deliver at least 2 billion vaccine doses by the end of 2021, covering at least 20 percent of the most vulnerable citizens in poor- and middle-income countries.

Innovative life-sciences companies have entered into a number of licensing agreements to facilitate dramatically expanded manufacturing of COVID-19 vaccines and therapeutics. For instance, Gilead Sciences has licensed its therapeutic remdesivir royalty-free to nine generic drug manufacturers, in Egypt, India, and Pakistan. AstraZeneca reached a licensing and technology transfer agreement enabling India’s Serum Institute to manufacture one billion vaccine doses for low- and middle-income countries. The Serum Institute has further entered into manufacturing licenses with a number of developers of yet to be approved COVID-19 vaccines, as have several other Indian vaccine manufacturers. Johnson and Johnson has announced plans to allocate up to 500 million vaccine doses to lower-income countries, with delivery starting by mid-2021. Companies like Johnson & Johnson are making the vast majority of these vaccine doses available on a not-for-profit basis.

Thus, the fundamental problem isn’t high prices due to IP rights; it’s dramatically scaling up manufacturing capacity. It takes 60 to 110 days to produce one batch of COVID-19 vaccine. When Serum Institute CEO Adam Poonawalla was asked if vaccine rollout was slowed because vaccine patentholders were licensing too few manufacturers to make them, he responded, “No. There are enough manufacturers, it just takes time to scale up. And by the way, I have been blown away by the cooperation between the public and private sectors in the last year, in developing these vaccines.” Poonawalla actually cited the lack of global regulatory harmonization as a far greater cause of delays in the vaccine rollout. Even Médecins Sans Frontières’ Rose Scourze acknowledged (in a January 20, 2021 BBC interview) that suspending patent rights “wouldn’t produce millions of more vaccines.”

Instead of forcing the disclosure of IP, policymakers should encourage the use of voluntary licensing agreements to expand production of the needed COVID-19 vaccines and therapeutics. One reason this critically matters is to ensure consistency and safety in the production of these treatments. The mRNA-based vaccines developed by Moderna and Pfizer are incredibly complex biologic products that require specialized experience, expertise, and equipment to manufacture. For example, mRNA vaccines require a complicated technique known as “bioprocess” that requires specialty bioreactors to first manufacture DNA that codes for the desired mRNA sequence, and then uses a second bioprocess to create billions of identical mRNA segments. These are then wrapped in a nanolipid wrapper using yet another very specialized fluidics and mixing process, and for which there are only three facilities in the world that can execute the step of creating the liquid capsule around the RNA.

Instead of simply being forced to divulge their IP or see it be compulsorily licensed to other manufacturers, in light of the extreme complexity of manufacturing COVID-19 vaccines and therapeutics, companies should have the right to evaluate potential license partners and ensure that they can meet the production standards required to safely and reliably produce COVID-19 vaccines or treatments before entering into license arrangements with them. Indeed, this is critical for it would be disastrous if defective vaccines or therapeutics were produced at facilities not properly equipped to produce such complex treatments. As Phil Stevens and Mark Schultz have written, there’s simply no evidence that invalidating IP rights would achieve more than the licensing agreements currently being forged between innovators and reputable vaccine manufacturers in countries such as India and Brazil.

Instead of rolling back intellectual property rights, policymakers in developed and developing nations alike should focus on mechanisms to scale up production of vaccines and make them affordably available to citizens in developing countries. But to achieve that, there is simply no compelling reason for a blanket suspension of the intellectual property rights associated with COVID-19 products and technologies. For this reason, the Biden administration should continue the previous administration’s stance of opposing the waiver at the WTO TRIPS council, where deliberations resume on March 10, and reject calls from some in Congress to endorse the proposed TRIPS waiver.

### 1NC – OFF

#### Current WTO legislation on IP rights promotes innovation

Ezell et al 4/29 Jaci McDole, Stephen Ezell [Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF). He focuses on science and technology policy, international competitiveness, trade, manufacturing, and services issues.] 4/29/21, “Ten Ways IP Has Enabled Innovations That Have Helped Sustain the World Through the Pandemic” Information Technology and Innovation Foundation, <https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through> DD AG

Although anti-IP proponents have attacked biopharmaceutical manufacturers particularly hard, the reality is all IP-protected innovations are at risk if these rights are ignored, or vitiated. Certain arguments have shown a desire for the term “COVID-19 innovations” to include everything from vaccines, therapeutics, diagnostics, and PPE to biotechnology, AI-related data, and educational materials.14 This could potentially open the floodgates to invalidate IP protection on many of the innovations highlighted in this report.

However, much of the current discussion concerning IP focuses almost entirely on litigation fears or R&D incentives. Although R&D is an important aspect of IP, as previously mentioned, these discussions ignore the fact that IP protection can be—and often is—used for other purposes, including generating initial capital to create a company and begin manufacturing and, more importantly, using licensing agreements and IP to track the supply chain and ensure quality control of products.

In 2018, Forbes identified counterfeiting as the largest criminal enterprise in the world.15 The global struggle against counterfeit and non-regulated products, which has hit Latin America particularly hard during the pandemic, proves the need for safety and quality assurance in supply chains.16 Some communities already ravaged by COVID-19 are seeing higher mortality rates related to counterfeit vaccines, therapeutics, PPE, and cleaning and sanitizing products.17

Polish authorities discovered vials of antiwrinkle treatment labeled as COVID-19 vaccines. 18 In Mexico, fake vaccines sold for approximately $1,000 per dose.19 Chinese and South African police seized thousands of counterfeit vaccine doses from warehouses and manufacturing plants.20 Meanwhile, dozens of websites worldwide claiming to sell vaccines or be affiliated with vaccine manufacturers have been taken down.21 But the problem is not limited to biopharmaceuticals. The National Intellectual Property Rights Coordination Center has recovered $48 million worth of counterfeit PPE and other products.22

Collaborative efforts between law enforcement and manufacturers have kept numerous counterfeits from reaching the population. In countries with strong IP protection, the chances of counterfeit products reaching the market are significantly lower. This is largely because counterfeiting tends to be an IP-related issue, and these countries generally provide superior means of tracking the supply chain through trademarks, trade secrets, and licensing agreements. This enables greater quality control and helps manufacturers maintain a level of public confidence in their products.

By controlling the flow of knowledge associated with IP, voluntary licensing agreements provide innovators with opportunities to collaborate, while ensuring their partners are properly equipped and capable of producing quality products. Throughout this difficult time, the world has seen unexpected collaborations, especially between biopharmaceutical companies worldwide such as Gilead and Eva Pharma or Bharat Biotech and Ocugen, Inc.

Throughout history, and most significantly in the nineteenth century through the widespread development of patent systems and the ensuing Industrial Revolution, IP has contributed toward greater economic growth.23 This is promising news as the world struggles for economic recovery. A 2021 joint study by the EU Intellectual Property Office (EUIPO) and European Patent Office (EPO) shows a strong, positive correlation between IP rights and economic performance.24 It states that “IP-owning firms represent a significantly larger proportion of economic activity and employment across Europe,” with IP-intensive industries contributing to 45 percent of gross domestic product (GDP) (€6.6 trillion; US$7.9 trillion).25 The study also shows 38.9 percent of employment is directly or indirectly attributed to IP-intensive industries, and IP generates higher wages and greater revenue per employee, especially for small-to-medium-sized enterprises.26 That concords with the United States, where the Department of Commerce estimated that IP-intensive industries support at least 45 million jobs and contribute more than $6 trillion dollars to, or 38.2 percent of, GDP.27

In 2020, global patent filings through the World Intellectual Property Organization’s (WIPO) Patent Cooperation Treaty (PCT) system reached a record 275,900 filings amidst the pandemic, growing 4 percent from 2019.28 The top-four nations, which accounted for 180,530 of the patent applications, were China, the United States, Japan, and Korea, respectively.29 While several countries saw an increase in patent filings, Saudi Arabia and Malaysia both saw significant increases in the number of annual applications, with the top two filing growths of 73 percent and 26 percent, respectively.30

#### Reductions in protections kill medical innovation, economic growth, and knowledge building for the future

McDole and Ezell 04/29 – Jaci McDole is a senior policy analyst covering intellectual property (IP) and innovation policy at ITIF. She focuses on IP and its correlations to global innovation and trade. Her work includes ITIF’s Innovate4Health Initiatives (2017–2019) and A Covid-19 TRIPS Waiver Makes No More Sense for Copyrights Than It Does for Patents (2021). McDole comes to ITIF from the Institute for Intellectual Property Research, an organization she cofounded to study and further robust global IP policies. Stephen J. Ezell is ITIF vice president for Global Innovation Policy. He focuses on science, technology, and innovation policy as well as international competitiveness and trade policy issues. He is the coauthor of Innovating in a Service Driven Economy: Insights Application, and Practice (Palgrave McMillan, 2015) and Innovation Economics: The Race for Global Advantage (Yale 2012). The Information Technology and Innovation Foundation (ITIF) is an independent, nonprofit, nonpartisan research and educational institute focusing on the intersection of technological innovation and public policy. Recognized by its peers in the think tank community as the global center of excellence for science and technology policy, ITIF’s mission is to formulate and promote policy solutions that accelerate innovation and boost productivity to spur growth, opportunity, and progress; April 29, 2021; “Ten Ways IP Has Enabled Innovations That Have Helped Sustain the World Through the Pandemic”; <https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through> //advay

Innovation can—and does—happen anywhere and at any time. As society ground to a halt in 2020, innovators around the world worked tirelessly to develop treatments, vaccines, and solutions to COVID-19 pandemic-related challenges. From personal protective equipment (PPE) to treatments and vaccines to autonomous delivery robots to remote and social distancing solutions for the workplace, intellectual property (IP) played an indispensable role in enabling research, development, and commercialization of many of the innovations meeting the challenges of the pandemic. IP enables start-ups to gain access to much-needed capital. IP gives innovators the confidence to invest in research and development (R&D) and provides incentives for commercialization. Indeed, it is difficult to innovate without the protection of ideas.

Despite this, some—particularly anti-business IP opponents—have blamed IP rights for a host of problems, including limited access to therapeutics, vaccines, and biotechnology. They offer seemingly simple solutions—weaken or eliminate IP rights—and innovation will flow like manna from heaven. Eliminating IP rights might accelerate the diffusion of some pre-existing innovations, but it would absolutely limit future innovations. Innovators, a bit like Charlie Brown kicking the football held by Lucy, would be wary of trusting governments who might say, “Well, this time we won’t take away your IP rights, so go ahead and invest large amounts of time and money.” Given the nature of COVID-19, nations around the world cannot afford to take this risk. Future pandemics and other challenges for which we will need to rely on IP-protected innovations to overcome are near certain to arise.

Moreover, the blame game usually ignores the real, underlying problems. For access to innovations to fight COVID-19, especially biotechnology, vaccines, and therapeutics, the underlying problems are regulatory delays and a lack of adequate and appropriate manufacturing infrastructure.1 The lack of infrastructure has resulted in supply chain bottlenecks in places where few are currently equipped to handle the manufacturing requirements.2 Meanwhile, regulatory delays have prevented vaccines, therapeutics, and diagnostics from entering certain markets.3

To better understand the role of IP in enabling solutions related to COVID-19 challenges, this report relies on 10 case studies drawn from a variety of nations, technical fields, and firm sizes. This is but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. From a paramedic in Mexico to a veteran vaccine manufacturing company in India and a tech start-up in Estonia to a U.S.-based company offering workplace Internet of Things (IoT) services, small and large organizations alike are working to combat the pandemic. Some have adapted existing innovations, while others have developed novel solutions. All are working to take the world out of the pandemic and into the future.

The case studies are:

Bharat Biotech: Covaxin

Gilead: Remdesivir

LumiraDX: SARS-COV-2 Antigen POC Test

Teal Bio: Teal Bio Respirator

XE Ingeniería Médica: CápsulaXE

Surgical Theater: Precision VR

Tombot: Jennie

Starship Technologies: Autonomous Delivery Robots

Triax Technologies: Proximity Trace

Zoom: Video Conferencing

As the case studies show, IP is critical to enabling innovation. Policymakers around the world need to ensure robust IP protections are—and remain—in place if they wish their citizens to have safe and innovative solutions to health care, workplace, and societal challenges in the future.

THE ROLE OF INTELLECTUAL PROPERTY IN R&D-INTENSIVE INDUSTRIES

Intangible assets, such as IP rights, comprised approximately 84 percent of the corporate value of S&P 500 companies in 2018.4 For start-ups, this means much of the capital needed to operate is directly related to IP (see Teal Bio case study for more on this). IP also plays an especially important role for R&D-intensive industries.5

To take the example of the biopharmaceutical industry, it is characterized by high-risk, time-consuming, and expensive processes including basic research, drug discovery, pre-clinical trials, three stages of human clinical trials, regulatory review, and post-approval research and safety monitoring. The drug development process spans an average of 11.5 to 15 years.6 For every 5,000 to 10,000 compounds screened on average during the basic research and drug discovery phases, approximately 250 molecular compounds, or 2.5 to 5 percent, make it to preclinical testing. Out of those 250 molecular compounds, approximately 5 make it to clinical testing. That is, 0.05 to 0.1 percent of drugs make it from basic research into clinical trials. Of those rare few which make it to clinical testing, less than 12 percent are ultimately approved for use by the U.S. Food and Drug Administration (FDA).7

In addition to high risks, drug development is costly, and the expenses associated with it are increasing. A 2019 report by the Deloitte Center for Health Solutions concluded that since 2010 the average cost of bringing a new drug to market increased by 67 percent.8 Numerous studies have examined the substantial cost of biopharmaceutical R&D, and most confirm investing in new drug development requires $1.7 billion to $3.2 billion up front on average.9 A 2018 study by the Coalition for Epidemic Preparedness found similar risks and figures for vaccines, stating, “In general, vaccine development from discovery to licensure can cost billions of dollars, can take over 10 years to complete, and has an average 94 percent chance of failure.”10 Yet, a 2010 study found that 80 percent of new drugs—that is, the less than 12 percent ultimately approved by the FDA—made less than their capitalized R&D costs.11 Another study found that only 1 percent (maybe three new drugs each year) of the most successful 10 percent of FDA approved drugs generate half of the profits of the entire drug industry.12

To say the least, biopharmaceutical R&D represents a high-stakes, long-term endeavor with precarious returns. Without IP protection, biopharmaceutical manufacturers have little incentive to take the risks necessary to engage in the R&D process because they would be unable to recoup even a fraction of the costs incurred. Diminished revenues also result in reduced investments in R&D which means less research into cancer drugs, Alzheimer cures, vaccines, and more. IP rights give life-sciences enterprises the confidence needed to undertake the difficult, risky, and expensive process of life-sciences innovation secure in the knowledge they can capture a share of the gains from their innovations, which is indispensable not only to recouping the up-front R&D costs of a given drug, but which can generate sufficient profits to enable investment in future generations of biomedical innovation and thus perpetuate the enterprises into the future.13

#### 1] Turns their disease impact – future pandemics are more likely and more deadly which makes innovation key to stop destruction

Ceballos 5/27 Gerardo Ceballos [PhD, Dr Gerardo Ceballos is an ecologist and conservationist at the Universidad Nacional Autonoma de Mexico. He is particularly recognized for his influential work on global patterns of distribution of diversity, endemism, and extinction risk in vertebrates. He is also well-known for his contribution to understanding the magnitude and impacts of the sixth mass extinction.], 5/27/21, “THE SIXTH MASS EXTINCTION AND THE FUTURE OF HUMANITY”, Population Matters, <https://populationmatters.org/news/2021/05/sixth-mass-extinction-and-future-humanity> DD AG

Somewhere, sometime in late 2019, a coronavirus from a wild species, perhaps a bat or a pangolin, infected a human in China. This could have been an obscure event, lost without trace in the annals of history, as it is very likely this has occurred many times in the last centuries. But this particular event was somehow different. The coronavirus became an epidemic first and a pandemic later. Covid-19 became the worst pandemic since the Spanish flu in 1918. The horrific human suffering it has caused, and its economic, social and political impacts, are still unraveling.

The reason Covid-19 and more than forty other very dangerous viruses, such as Lassa fever, HIV and Ebola, have jumped from wild animals to humans in the last four decades is the destruction of natural environments and the trafficking and consumption of wild animals.

The wildlife trade is to satisfy the insatiable and extravagant demand for these species in the Asian market, in countries such as China, Vietnam and Indonesia. The illegal wildlife trade is a gigantic business. It is as lucrative as the drug trade, but without the legal implications. The immense appetite of China and other Asian societies for exotic animals has promoted exponential growth in trade and profits. Wild and domestic animals sold in “wet markets” are kept in unsanitary and unethical conditions. There, feces, urine and food waste from cages at the top spill into cages at the bottom, creating the perfect conditions for viruses to leap from wild animals to domestic animals and humans. Thousands of wildlife species or their products are traded annually.

Wildlife trade is one of several human impacts, including habitat loss and fragmentation, pollution, toxification and invasive species, that have caused the extinction of thousands of species and threaten many more. Indeed, most people are unaware that the current extinction crisis is unprecedented in human history. Extinction occurs when the last individual of a species dies. The UN recently estimated that one million species, such as the panda, the orangutan and the Sumatran rhino, are at risk of extinction.

The second finding is that population extinctions, which are the prelude to species extinctions, are occurring at very fast rates (Ceballos et al., 2017). Around 32 percent of a sample of 27,000 species have declining populations and have experienced massive geographic range contractions. Population extinctions are a very severe and widespread environmental problem which we have called “Biological Annihilation”.

Finally, our third finding indicates that the magnitude of the extinction crisis is underestimated because there are thousands of species on the brink of extinction (Ceballos et al., 2020). Those species will likely become extinct in the near future unless a massive conservation effort is launched soon.

Many times, people have asked me why we should care about the loss of a species. There are ethical, moral, philosophical, religious and other reasons to be concerned. But perhaps the one that is most tangible for most people is the loss of ecosystem services, which are the benefits that humans derive from the proper function of nature. Ecosystem services include the proper mix of gases in the atmosphere that support life on Earth, the quantity and quality of water, pollination of wild crops and plants, fertilization of the soil, and protection against emerging pests and diseases, among many others. Every time a species is lost, ecosystem services are likely to erode and human well-being is reduced.

The loss of so many ecosystems and species is pushing us towards the point of collapse of civilization. The good news is that there is still time to reduce the current extinction crisis. The species and ecosystems that we manage to save in the next 10 – 15 years will define the future of biodiversity and civilization. What it is at stake is the future of mankind.

### 1NC – OFF

#### Dems win the Senate now, but it’s close---it determines the Biden presidency.

Shane **Goldmacher 7/17**. Reporter, New York Times, “Democrats See Edge in Early Senate Map as Trump Casts Big Shadow,” The New York Times, July 17, 2021, <https://www.nytimes.com/2021/07/17/us/politics/midterm-elections.html>, RJP, DebateDrills.

Six months into the Biden administration, Senate Democrats are expressing a cautious optimism that the party can keep control of the chamber in the 2022 midterm elections, enjoying large fund-raising hauls in marquee races as they plot to exploit Republican retirements in key battlegrounds and a divisive series of unsettled G.O.P. primaries.

Swing-state Democratic incumbents, like Senators Raphael Warnock of Georgia and Mark Kelly of Arizona, restocked their war chests with multimillion-dollar sums ($7.2 million and $6 million, respectively), according to new financial filings this week. That gives them an early financial head start in two key states where Republicans’ disagreements over former President Donald J. Trump’s refusal to accept his loss in 2020 are threatening to distract and fracture the party.

But Democratic officials are all too aware of the foreboding political history they confront: that in a president’s first midterms, the party occupying the White House typically loses seats — often in bunches. For now, Democrats hold power by only the narrowest of margins in a 50-50 split Senate, with Vice President Kamala Harris serving as the tiebreaker to push through President Biden’s expansive agenda on the economy, the pandemic and infrastructure.

#### The plan is unpopular---it’s seen as soft on China.

Cynthia Hicks 21. Director of Public Affairs at PhRMA focusing on polling and opinion research that supports advocacy communications and strategy. “New polling shows Americans are sounding the alarm on the TRIPS IP waiver,” PhRMA, May 14, 2021, <https://catalyst.phrma.org/new-polling-shows-americans-are-sounding-the-alarm-on-the-trips-ip-waiver>, RJP, DebateDrills

\*\*\*NOTE – the stuff after “include the following” is a picture that couldn’t be pasted. Go to the URL if you want to see it.

2. Americans are concerned that the TRIPS waiver could risk patient safety, sow public confusion, and cede America’s global innovation leadership to China.

Americans worry that waiving intellectual property introduces unnecessary and dangerous risks to safety and vaccine manufacturing. The top concerns – expressed by more than six in ten voters – include the following:

#### China is the key for the midterms---Senate control hinges on it.

Sarah Mucha 21. Politics reporter at Axios, covering the Biden administration and Congress. “Parties pounce on China as midterm issue,” Axios, June 23, 2021, <https://www.axios.com/democrat-republicans-china-2022-midterms-6c242c54-b51b-444e-b9b2-65ff0afb906a.html>, RJP, DebateDrills

Democrats and Republicans in purple states are already leaning into U.S. competition with China as a key issue in the fight to control the Senate in 2022.

Why it matters: American voters hold [increasingly negative feelings](https://www.pewresearch.org/fact-tank/2021/04/12/americans-views-of-asia-pacific-nations-have-not-changed-since-2018-with-the-exception-of-china/) toward the Chinese government, particularly around bilateral economic relations and following the nation’s handling of the COVID-19 outbreak.

President Biden also has made it clear that confronting China remains a foreign policy priority.

[Possibly vulnerable Democratic senators](https://www.axios.com/senate-seats-2022-midterm-elections-aa166e09-65e9-49be-a1f4-428c36a8dad0.html) are capitalizing on the passage of the U.S. Innovation and Competition Act, a sweeping global competition bill focused on China that [recently passed by a rare bipartisan vote](https://www.axios.com/senate-china-competition-bipartisan-e2fa3f88-16d4-4d79-bab0-1b9c6a4f2774.html).

Sen. Raphael Warnock (D-Ga.) visited Kia’s West Point factory in Georgia to address how the bill could address the recent semiconductor shortage and avoid future plant shutdowns, like one the factory experienced.

Sens. Maggie Hassan (D-N.H.) and Mark Kelly (D-Ariz.) wrote op-eds in their local news outlets highlighting the bill's benefits.

The Democratic Senatorial Campaign Committee and state Democratic parties are calling out Republicans like Sens. Ron Johnson (R-Wis.) and Marco Rubio (R-Fla.), both of whom voted against the bill.

They’ve also targeted Republicans running in open Senate seats who have expressed opposition to the bill.

Meanwhile, Rubio has been making a play for China hawks in Florida, Axios’ Lachlan Markay [reported last week](https://www.axios.com/rubios-anti-china-voters-senate-race-florida-7f6539ab-86b8-4d08-a423-0a26598863ea.html).

Rubio, who is up for re-election next year, has been sending campaign emails with subject lines such as, "Dems <3 China," and, "Is it time to stand up to Communist China?" to a list maintained by a nonprofit group called Stand Up to China.

In Arizona, Republicans latched onto [Kelly's ties to a Chinese tech firm](https://www.azcentral.com/story/news/politics/elections/2020/05/14/senate-elections-2020-mark-kelly-business-ties-chinese-tech-firm-under-fire/5187587002/) last year, and it's likely they'll continue to use that strategy.

The senator's team has argued he isn't beholden to Chinese authorities.

Republicans have long branded Democrats as "weak" on China as a line of attack. Expect that to continue through the campaign cycle, as Democratic candidates tout the passage of the U.S. Innovation Act and reframe the narrative.

They plan to focus on increasing the United States' competitive edge with China as a policy priority.

What they’re saying: David Bergstein, a spokesman for the DSCC, said the campaign committee will be “reminding voters that any Republican who refused to back this critical bill was too weak to stand up to China in order to protect and grow good-paying jobs.”

Chris Hartline, spokesman for the NRSC, said in a statement that "no one believes that Joe Biden and Senate Democrats will do what it takes to confront the geopolitical and economic threat posed by (President) Xi (Jinping) and the Chinese Communist Party.

#### GOP control of the Senate will be used to usher in a new wave of Trumpism, crushing democracy.

Morton **Kondracke 21**. Retired executive editor of Roll Call, a former "McLaughlin Group" and Fox News commentator and co-author, with Fred Barnes, of Jack Kemp: The Bleeding Heart Conservative Who Changed America. “Why Democrats Must Retain Control of Congress in 2022,” RealClearPolitics, August 4, 2021, <https://www.realclearpolitics.com/articles/2021/08/04/why_democrats_must_retain_control_of_congress_in_2022_146189.html>, RJP, DebateDrills

The 2020 election demonstrated how fragile our democracy is. As Donald Trump tried, [by means both legal and illegal](https://en.wikipedia.org/wiki/Attempts_to_overturn_the_2020_United_States_presidential_election), to overturn the results of a free and fair election, only the [courts and a thin line of courageous Republican election officials](https://www.brennancenter.org/our-work/research-reports/its-official-election-was-secure) guaranteed that the peoples’ choice prevailed.

But the safeguards are weaker. Although the Supreme Court [upheld](https://www.nbcnews.com/politics/supreme-court/supreme-court-rejects-final-trump-election-challenge-n1260023) the last lower-court dismissal of multiple Trump-inspired lawsuits charging election fraud, in July the court [upheld new voting restrictions](https://www.reuters.com/world/us/voting-rights-breyers-future-spotlight-us-supreme-court-2021-07-01/https:/www.reuters.com/world/us/voting-rights-breyers-future-spotlight-us-supreme-court-2021-07-01/) enacted in Arizona.

And many of the [Republican election officials](https://thehill.com/homenews/state-watch/565657-new-spotlight-on-secretaries-of-state-as-electoral-battlegrounds) who refused to back up Trump’s bogus fraud charges have been [threatened](https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack),  [fired, or are being challenged for reelection by Trump followers](https://www.economist.com/united-states/2021/07/03/state-level-republicans-are-reforming-how-elections-are-administered). Meanwhile, [17 Republican-controlled state legislatures](https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021) have  joined Arizona in making voting more difficult: In several of them,  legislators are trying to [seize control of election management](https://www.politifact.com/article/2021/jul/14/are-state-legislators-really-seeking-power-overrul/), including power to replace county election officials or even decide how a state’s election results should be certified, regardless of the popular vote.

Republicans claim they are acting restore faith in elections, but—with fraud repeatedly shown to be rare and of no effect in in 2020—Trump and his followers are really [undermining faith](https://www.politico.com/news/2021/05/24/2020-election-republican-official-races-490458) in American elections.

The result of this frenzy of activity in furtherance of Trump’s “Big Lie”—that he won the 2020 election (and that he won in a “landslide,” no less) —is that the preservation of American-style self-government depends on Democrats retaining control of Congress in 2022.

Republicans have shown that they simply can’t be trusted to safeguard democracy. Donald Trump now [owns the Republican Party](https://www.washingtonpost.com/politics/2021/06/11/how-republican-party-became-party-trump/) as GOP politicians up and down the line do his bidding, out of fear or belief.

Even after a mob of Trump supporters invaded the U.S. Capitol on Jan. 6, Republicans in Congress voted overwhelmingly against [impeaching](https://www.politico.com/interactives/2021/trump-second-impeachment-vote-count-house-results-list/) and [convicting](https://www.politico.com/interactives/2021/trump-second-impeachment-senate-vote/) him for his actions and inaction. Eight GOP senators and 147 representatives [voted not to certify](https://www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.htmlhttps:/www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.htmlhttps:/www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.html) Electoral College counts submitted by two states (had they prevailed, there would have more). Then only six GOP senators voted in favor of forming a truly bipartisan 9/11-style commission to investigate the insurrection, [killing the proposal by filibuster](https://www.washingtonpost.com/national-security/january-6-commission-senate/2021/05/28/54e9f692-bf27-11eb-b26e-53663e6be6ff_story.htmlhttps:/www.washingtonpost.com/national-security/january-6-commission-senate/2021/05/28/54e9f692-bf27-11eb-b26e-53663e6be6ff_story.html).  After Democratic House Speaker Nancy Pelosi established a select committee to conduct an investigation, Republican leaders attacked her as responsible for the riot,  [falsely claiming](https://www.nytimes.com/2021/07/27/us/insurrection-pelosi-claims-fact-check.html) she is in charge of security at the Capitol.

Republicans who voted against Trump on any issue relating to Jan. 6 now face [primary opponents](https://www.usatoday.com/story/news/politics/2021/02/28/cpac-donald-trump-expected-claim-leadership-republican-party/6843815002/https:/www.usatoday.com/story/news/politics/2021/02/28/cpac-donald-trump-expected-claim-leadership-republican-party/6843815002/) backed by him and [censure](https://www.voanews.com/usa/us-politics/republican-groups-censure-party-lawmakers-who-voted-impeach-convict-trump) by their state parties. Rep. Liz Cheney, the most vocal Trump critic in the GOP, lost her House leadership post. Trump has even [attacked Senate Minority Leader Mitch McConnell](https://www.politico.com/news/2021/02/16/trump-attacks-mcconnell-in-fiery-statement-469150https:/www.politico.com/news/2021/02/16/trump-attacks-mcconnell-in-fiery-statement-469150), who criticized him after Jan. 6 but also blocked creation of the 9/11 commission. It’s classic authoritarian behavior—demanding [total loyalty](https://www.nytimes.com/2020/02/22/us/politics/trump-disloyalty-turnover.html) from his followers and total control of his faction, and assailing any rivals in power.

Lately, Trump [reportedly](https://www.forbes.com/sites/markjoyella/2021/06/01/maggie-haberman-trump-telling-people-he-expects-to-be-reinstated-as-president-by-august/) has encouraged his followers to believe he can somehow be reinstated as president later this month, and the Department of Homeland Security is [concerned](https://www.cnn.com/2021/06/30/politics/dhs-summer-violence-warnings-conspiracy/index.html) that the violent acts of Jan. 6 may be repeated when he’s not.

The sad, but inevitable conclusion is that if Republicans take control of either chamber in Congress, they will not try to do what’s best for America as a whole. They will do what Trump tells them to do, probably starting with trying to undo everything President Biden and the Democrats in Congress have done during the previous two years.

For starters, if Democrats are to prevail next November, Biden must be seen as a successful moderate-progressive president—one who can defy the historical pattern that presidential parties [almost invariably](https://www.brookings.edu/wp-content/uploads/2017/01/vitalstats_ch2_tbl4.pdf) lose seats in their first midterm election.

The last two Democratic presidents s who launched major initiatives without GOP support, Bill Clinton (tax increases and health care reform) and Barack Obama (Obamacare and anti-recession stimulus spending), suffered historic shellackings in the ensuing midterms—54 House seats and eight Senate seats in 1994, and 63 House and six Senate seats in 2010. Biden, who has multiple big programs in his policy agenda, has smaller Democratic margins in Congress than Clinton and Obama.  In other words, the Democrats must hang on to almost all of their contested districts and states.

McConnell, who earned the moniker [“grim reaper”](https://thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaperhttps:/thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaperhttps:/thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaper) for blocking Obama, was supposed to be a willing negotiating partner for Biden. Instead, the Senate Republican leader has pronounced himself  [“100% focused”](https://www.nbcnews.com/politics/joe-biden/mcconnell-says-he-s-100-percent-focused-stopping-biden-s-n1266443) on defeating Biden’s legislative agenda. So far, Biden has succeeded in passing a $1.9 trillion COVID relief package (with no Republican votes). He is trying to work out a bipartisan $1 trillion [“physical infrastructure”](https://www.cnn.com/2021/07/28/politics/infrastructure-bill-explained/index.html) package. McConnell isn’t the obstruction with this legislation, as Senate negotiators and the White House [sound optimistic](https://www.reuters.com/world/us/us-senators-move-forward-with-infrastructure-bill-sunday-2021-08-01/). But with Rep. Kevin McCarthy openly angling for Pelosi’s job, nothing is certain in the House.

Trump is actively trying to scuttle infrastructure spending. He’s telling Republicans to oppose it, saying passage means letting “the Radical Left play you for weak fools and losers,” and he has [threatened primary challenges](https://www.forbes.com/sites/andrewsolender/2021/07/28/trump-threatens-lots-of-primaries-for-gop-senators-over-infrastructure-deal/?sh=4be66d98276b) against GOP legislators who support it. This, despite his promising to pass a [$2 trillion bill](https://www.politico.com/news/2021/07/28/infrastructure-deal-trump-501287) while president (then never delivering). Republicans who support it obviously want money for roads, bridges and broadband for their constituents.

But they don’t like the contents of Biden’s follow-up proposal—a $3.5 trillion “human infrastructure” program, which would expand Medicare, caregiving for the disabled and elderly, and child care, while funding universal pre-kindergarten, free community college, national paid family leave, and extended child tax credits. And they don’t like the corporate and capital gains tax increases Democrats propose to pay for it all. So the Democratic plan is to pass it as a “budget reconciliation” measure requiring only Democratic votes.

If, next November, the GOP captures one chamber—most likely, the [House](https://centerforpolitics.org/crystalball/articles/forecasting-the-2022-midterm-election-with-the-generic-ballot/)—whatever Biden can get done in his first two years can’t be easily undone, but he will get nothing more passed. If the GOP gets control of both chambers, Republicans will try to reverse anything he has accomplished. He’ll have only his veto pen as protection.  Stalemate from 2023 through 2024—and an unsuccessful-seeming Biden presidency—could reelect Trump (or someone backed by him), in which case constitutional norms and respect for election results and the rule of law would again be in peril.

### 1NC – OFF

#### Settler colonialism is the permeating structure of the nation-state which requires the elimination of indigenous life and land via the occupation of settlers. The appropriation of land turns Natives into ghosts and chattel slaves into excess labor.

Tuck and Yang 12 (Eve Tuck, Unangax, State University of New York at New Paltz K. Wayne Yang University of California, San Diego, Decolonization is not a metaphor, Decolonization: Indigeneity, Education & Society Vol. 1, No. 1, 2012, pp. 1-40)

Our intention in this descriptive exercise is not be exhaustive, or even inarguable; instead, we wish to emphasize that (a) decolonization will take a different shape in each of these contexts - though they can overlap - and that (b) neither external nor internal colonialism adequately describe the form of colonialism which operates in the United States or other nation-states in which the colonizer comes to stay. **Settler colonialism operates through internal/external colonial modes simultaneously because there is no spatial separation between metropole and colony.** For example, **in the United States, many Indigenous peoples have been forcibly removed from their homelands onto reservations, indentured, and abducted into state custody, signaling the form of colonization as simultaneously internal (via boarding schools and other biopolitical modes of control) and external (via uranium mining on Indigenous land in the US Southwest and oil extraction on Indigenous land in Alaska) with a frontier (the US military still nicknames all enemy territory “Indian Country”).** **The horizons of the settler colonial nation-state** are total and **require** a mode of **total appropriation of Indigenous life and land**, rather than the selective expropriation of profit-producing fragments. **Settler colonialism is different from other forms of colonialism** in that **settlers come with the intention of making a new home on the land,** a homemaking **that insists on settler sovereignty over all things** in their new domain. Thus, **relying** solely **on postcolonial literatures or** theories of **coloniality that ignore settler colonialism will not help to envision the shape that decolonization must take in settler colonial contexts**. Within settler colonialism, the most important concern is land/water/air/subterranean earth (land, for shorthand, in this article.) **Land is what is most valuable, contested, required**. **This is both because the settlers make** Indigenous **land their** new home and **source of capital,** and also because **the disruption of Indigenous relationships to land represents** a profound **epistemic, ontological, cosmological violence**. **This violence is not temporally contained in the arrival of the settler but is reasserted each day of occupation.** This is why Patrick Wolfe (1999) emphasizes that **settler colonialism is a structure and not an event**. In the process of settler colonialism, **land is remade into property and human relationships to land are restricted to the relationship of the owner to his property**. Epistemological, ontological, and cosmological relationships to land are interred, indeed made pre-modern and backward. Made savage. **In order for the settlers to make a place their home, they must destroy and disappear the Indigenous peoples that live there.** Indigenous peoples are those who have creation stories, not colonization stories, about how we/they came to be in a particular place - indeed how we/they came to be a place. **Our/their relationships to land comprise our/their epistemologies, ontologies, and cosmologies.** For the settlers, Indigenous peoples are in the way and, in the destruction of Indigenous peoples, Indigenous communities, and over time and through law and policy, Indigenous peoples’ claims to land under settler regimes, land is recast as property and as a resource. **Indigenous peoples must be erased, must be made into ghosts** (Tuck and Ree, forthcoming). At the same time, **settler colonialism involves the subjugation and forced labor of chattel slaves, whose bodies and lives become the property, and who are kept landless.** Slavery in settler colonial contexts is distinct from other forms of indenture whereby excess labor is extracted from persons. First, **chattels are commodities of labor and therefore it is the slave’s person that is the excess.** Second, unlike workers who may aspire to own land, the slave’s very presence on the land is already an excess that must be dis-located. Thus, **the slave is a desirable commodity but the person underneath is imprisonable, punishable, and murderable. The violence of keeping/killing the chattel slave makes them deathlike monsters in the settler imagination**; they are reconfigured/disfigured as the threat, the razor’s edge of safety and terror. The settler, if known by his actions and how he justifies them, sees himself as holding dominion over the earth and its flora and fauna, as the anthropocentric normal, and as more developed, more human, more deserving than other groups or species. The settler is making a new "home" and that home is rooted in a homesteading worldview where the wild land and wild people were made for his benefit. He can only make his identity as a settler by making the land produce, and produce excessively, because "civilization" is defined as production in excess of the "natural" world (i.e. in excess of the sustainable production already present in the Indigenous world). In order for excess production, he needs excess labor, which he cannot provide himself. **The chattel slave serves as that excess labor, labor that can never be paid because payment would have to be in the form of property (land).** The settler's wealth is land, or a fungible version of it, and so payment for labor is impossible.6 The settler positions himself as both superior and normal; the settler is natural, whereas the Indigenous inhabitant and the chattel slave are unnatural, even supernatural. **Settlers are not immigrants.** Immigrants are beholden to the Indigenous laws and epistemologies of the lands they migrate to. Settlers become the law, supplanting Indigenous laws and epistemologies. Therefore, settler nations are not immigrant nations (See also A.J. Barker, 2009). Not unique, the United States, as a settler colonial nation-state, also operates as an empire - utilizing external forms and internal forms of colonization simultaneous to the settler colonial project**.** This means, and this is perplexing to some, that dispossessed people are brought onto seized Indigenous land through other colonial projects. Other colonial projects include enslavement, as discussed, but also military recruitment, low-wage and high-wage labor recruitment (such as agricultural workers and overseas-trained engineers), and displacement/migration (such as the coerced immigration from nations torn by U.S. wars or devastated by U.S. economic policy). **In this set of settler colonial relations, colonial subjects who are displaced by external colonialism, as well as racialized and minoritized by internal colonialism, still occupy and settle stolen Indigenous land. Settlers are diverse, not just** of **white European descent, and include people of color**, even from other colonial contexts. **This tightly wound set of conditions and racialized, globalized relations exponentially complicates what is meant by decolonization, and by solidarity, against settler colonial forces.** Decolonization in exploitative colonial situations could involve the seizing of imperial wealth by the postcolonial subject. In settler colonial situations, seizing imperial wealth is inextricably tied to settlement and re-invasion. Likewise, the promise of integration and civil rights is predicated on securing a share of a settler-appropriated wealth (as well as expropriated ‘third-world’ wealth). Decolonization in a settler context is fraught because empire, settlement, and internal colony have no spatial separation. Each of these features of settler colonialism in the US context - empire, settlement, and internal colony - make it a site of contradictory decolonial desires7. **Decolonization as metaphor allows people to equivocate** these **contradictory decolonial desires because it turns decolonization into an empty signifier to be filled by any track towards liberation.** In reality, **the tracks walk all over land/people in settler contexts.** Though the details are not fixed or agreed upon, in our view, **decolonization** in the settler colonial context **must involve the repatriation of land simultaneous to the recognition of how land and relations to land have always already been differently understood and enacted; that is, all of the land, and not just symbolically.** **This is precisely why decolonization is** necessarily **unsettling, especially across lines of solidarity**. “Decolonization never takes place unnoticed” (Fanon, 1963, p. 36). **Settler colonialism and its decolonization implicates and unsettles everyone.**

#### The case is NOT offense – their scenarios for “extinction” and “suffering” are metaphorical invocations that sustain settler futurity – only the alternative can prevent them and other ongoing extinctions

Mitchell 17 (Audra Mitchell, CIGI Chair in Global Governance and Ethics, Balsillie School of International Affairs, and Associate Professor at Wilfrid Laurier University, former Senior Lecturer in International Relations, department of Politics, University of York, Ph.D. Queen’s University of Belfast, “Decolonizing against extinction part II: Extinction is not a metaphor – it is literally genocide,” Worldly, 9-27-2017, <https://worldlyir.wordpress.com/2017/09/27/decolonizing-against-extinction-part-ii-extinction-is-not-a-metaphor-it-is-literally-genocide/>)KMM

Extinction is not a metaphor… Extinction has become an emblem of Western, and white-dominated, fears about ‘the end of the(ir) world’. This scientific term is saturated with emotional potency, stretched and contorted to embody almost any nightmare, from climate change to asteroid strikes. In academic and public contexts alike, it is regularly interchanged with other terms and concepts – for instance, ‘species death’, global warming or ecological collapse. Diffused into sublime scales – mass extinctions measured in millions of (Gregorian calendar) years, a planet totalized by the threat of nuclear destruction – ‘extinction’ has become an empty superlative, one that that gestures to an abstract form of unthinkability. It teases Western subjects with images of generalized demise that might, if it gets bad enough, even threaten us, or the figure of ‘humanity’ that we enshrine as a universal. This figure of ‘humanity’, derived from Western European enlightenment ideals, emphasizes individual, autonomous actors who are fully integrated into the global market system; who are responsible citizens of nation-states; who conform to Western ideas of health and well-being; who partake of ‘culture’; who participate in democratic state-based politics; who refrain from physical violence; and who manage their ‘resources’ responsibly (Mitchell 2014). Oddly, exposure to the fear of extinction contributes to the formation and bolstering of contemporary Western subjects. Contemplating the sublime destruction of ‘humanity’ offers the thrill of abjection: the perverse pleasure derived from exposure to something by which one is revolted. Claire Colebrook detects this thrill-seeking impulse in the profusion of Western blockbuster films and TV shows that imagine and envision the destruction of earth, or at least of ‘humanity’. It also throbs through a flurry of recent best-selling books – both fiction and speculative non-fiction (see Oreskes and Conway 2014; Newitz 2013; Weisman 2008). In a forthcoming intervention, Noah Theriault and I (2018) argue that these imaginaries are a form of porn that normalizes the profound violences driving extinction, while cocooning its viewers in the secure space of the voyeur. Certainly, there are many Western scientists, conservationists and policy-makers who are genuinely committed to stopping the extinction of others, perhaps out of fear for their own futures. Yet extinction is not quite real for Western, and especially white, subjects; it is a fantasy of negation that evokes thrill, melancholy, anger and existential purpose. It is a metaphor that expresses the destructive desires of these beings, and the negativity against which we define our subjectivity. But extinction is not a metaphor: it is a very real expression of violence that systematically destroys particular beings, worlds, life forms and the relations that enable them to flourish. These are real, unique beings, worlds and relations – as well as somebody’s family, Ancestors, siblings, future generations – who are violently destroyed. Extinction can only be used unironically as a metaphor by people who have never been threatened with it, told it is their inevitable fate, or lost their relatives and Ancestors to it – and who assume that they probably never will. This argument is directly inspired by the call to arms issued in 2012 by Eve Tuck and Wayne K. Yang and more recently by Cutcha Risling-Baldy. The first, seminal piece demonstrates how settler cultures use the violence of metaphorical abstraction to excuse themselves from the real work of decolonization: ensuring that land and power is in Indigenous hands. Risling-Baldy’s brilliant follow-up extends this logic to explain how First People like Coyote have been reduced to metaphors through settler appropriation. In both cases, engagement with Indigenous peoples and their relations masks moves to innocence: acts that make it appear as if settlers are engaging in decolonization, while in fact we are consolidating the power structures that privilege us. In this series, want to show how Western, and white-dominated, discourses on ‘extinction’ appear to address the systematic destruction of peoples and other beings while enacting moves to innocence that mask their culpability and perpetuate structures of violence. As I argued in Part I of this series, extinction is an expression of colonial violence. As such, it needs to be addressed through direct decolonization, including the dismantling of settler colonial structures of violence, and the resurgence of Indigenous worlds. Following Tuck, Yang and Risling-Baldy’s lead, I want to show how and why the violences that drive extinction have come to be invisible within mainstream discourses. Salient amongst these is the practice of genocide against Indigenous peoples other than humans. …it is literally genocide. What Western science calls ‘extinction’ is not an unfortunate, unintended consequence of desirable ‘human’ activities. It is an embodiment of particular patterns of structural violence that disproportionately affect specific racialized groups. In some cases, ‘extinction’ is directly, deliberately and systematically inflicted in order to create space for aggressors, including settler states. For this reason, it has rightly been framed as an aspect or tool of colonial genocides against Indigenous human peoples. Indeed, many theorists have shown that the ‘extirpation’ of life forms (their total removal from a particular place) is an instrument for enacting genocide upon Indigenous humans (see Mazis 2008; Laduke 1999; Stannard 1994). Specifically, the removal of key sources of food, clothing and other basic materials makes survival on the land impossible for the people targeted. Nehiyaw thinker Tasha Hubbard (2014) makes a qualitatively distinct argument. She points out that the Buffalo are First People, the elder brothers of the Nehiyaw people (and other Indigenous nations – see Benton-Banai 2010). Starting in the mid-1800s, the tens of millions of buffalo that ranged across Turtle Island were nearly eliminated through strategic patterns of killing carried out by settler-state-sponsored military and commercial forces. Their killing was linked to governmental imperatives to clear and territorially annex the Great Plains by removing its Indigenous peoples. As Hubbard points out, methods of destroying buffalo herds included large-scale killing, but also the disruption of their social structures, the destruction of the ecosystems on which they rely, and the removal of calves. These acts involve each of the components of the definition of genocide enshrined in the UN Genocide Convention: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. From Hubbard’s viewpoint, rooted in Nehiyaw philosophy and ethical-legal principles, the systematic destruction of the buffalo is not like genocide, nor is it exclusively a tool for carrying out genocide against human peoples. It is genocide in its own right: an attempt to destroy a particular First People and the possibilities of its continuity. In other words, the deliberate and systematic attempt to eliminate the buffalo, enacted by settler states, simultaneously enacted genocide against Indigenous peoples and their nonhuman relatives. Genocides of Indigenous peoples (human and otherwise) continue apace in contemporary settler states, transformed into multiple manifestations. For instance, they are integral to ‘biosecurity’ strategies designed to police the biological boundaries of these states and their citizens. Laced with racializing and xenophobic rhetoric (Subramaniam 2001), strategies such as culling or planned eradications are intended to remove ‘invasive’ or ‘foreign’ life forms in order to protect ‘Native’ ones. Many of the ‘invasive’ life forms targeted for destruction were transported to unfamiliar lands through colonial patterns of settlement and global trade flows. However, this logic of elimination (Wolfe 2006) is often perverted, turned against Indigenous\* beings whose flourishing impedes the expansion or consolidation of the colonial state. For instance, Deborah Bird Rose (2011 a, 2011 b) shows how this form of violence is continually waged against flying foxes, who are framed by the settler state as “pest[s] whose extinction is [deliberately] sought”. This act of elimination involves explicit genocidal ideation, or the imagination of the destruction of a people. Rose characterizes it as a “matter of imagining a world without [dingoes or flying foxes], then setting out to create it” (Rose 2011a). The Australian settler state has used multiple tactics to induce terror and preclude flourishing amongst flying foxes, from the emission of high-pitched electronic signals to smearing trees with python excrement (Rose 2011b). Indeed, in 2014, I lived near to the roosting site of a group of flying foxes in Turrbal and Jagera Country (suburban Brisbane to settlers). Such nesting places are called ‘colonies’ , reflecting a Western scientific rhetoric that frames Indigenous peoples as ‘invaders’ of the settler state. The trees that housed the nesting site backed onto a municipal facility, whose fence had been covered with barbed wire, in which many of the bats snared their wings and starved to death. This ‘security’ measure – designed to protect the facilities relied upon by urban settlers from the intrusion of flying foxes – is a powerful weapon for precluding ongoing flourishing of Indigenous other-than-human peoples. I learned from neighbours that this ‘colony’ had previously been ‘moved’ from several other sites around the city, suffering significant declines in population each time. Indeed, despite reported declines of 95% in flying fox communities in Queensland and neighbouring New South Wales, the Queensland settler state legalized the shooting of the bats in 2012 by fruitgrowers. Of course, in some cases, the elimination of life forms is not as targeted or intentional – it may take the form of land-based extractive violence, the creep of ocean acidification, the decimation of rainforests by climate change. Proponents of a Eurocentric definition of genocide could argue that these events lack intention. Indeed, within international law, intention to commit genocide is a necessary criteria for conviction. However, theorists of critical genocide studies have long argued that this definition is inadequate: it brackets out a great many of the acts, logics and structures that produce the destruction of unique peoples. According to Tony Barta, definitions of genocide that focus on ‘purposeful annihilation’, and in particular on physical killing, have “devalu[ed] all other concepts of less planned destruction, even if the effects are the same” (Barta 2000, 238). For this reason, he shifts the focus from ‘genocidal intention’ to ‘genocidal outcome’ – that is, from the abstract assignation of genocidal agency to the felt and embodied effects of eliminative violence. It is the focus on intent, he contends, that allows white Australians to imagine that their relationship with Aboriginal people is non-genocidal despite overwhelming evidence of systematic and deliberate racialized destruction over several centuries. In contrast, an approach based on ‘genocidal outcomes’ makes it possible to account for complex causality and weak intentionality – that is, for myriad acts mediated by subtle, normalized structures that, together, work to eliminate a people. I want to argue that the same logic applies to nonhuman peoples: the destruction of a life form, its relations with other beings and its possible futures is a genocidal outcome, whether or not intention can be identified. Similarly, Christopher Powell (2007) argues that, since a ‘genos’ is a “network of practical social relations, destruction of a genos means the forcible breaking down of those relationships…these effects could be produced without a coherent intent to destroy. They could result from sporadic and uncoordinated actions whose underlying connection is the production of a new society in which there is simply no room for the genos in question to exist. They might even result from well-meaning attempts to do good” (Powell 2007, 538) As I have argued elsewhere, extinction is defined by the breaking of relations and the systematic destruction of the conditions of plurality that nurture co-flourishing worlds. Whether inflicted out as a deliberate act of extirpation, or as the convergent effect of eliminative logics expressed over centuries and enormous spatial scales, extinction is the destruction of relations and the heterogenous societies they nurture. Understood in this way, ‘extinction’ is not a metaphor for genocide or other forms of large-scale violence: it is a distinct manifestation of genocide. Masking the genocidal logics that drive extinction involves several moves to innocence (Tuck and Yang 2012). Treating extinction as something short of genocide entrenches Eurocentric understandings of personhood that are limited to homo sapiens, which is itself an act of violence against these peoples. Ironically, the entrenchment of this dichotomy also enables the logic of ‘dehumanization’, in which human communities are likened to reviled nonhumans (for instance, cockroaches) in order to motivate violence against them. As I have argued elsewhere (Mitchell 2014), the logic of generalised ‘dehumanisation’ is uniquely effective in Western frameworks in which the lack of ethical status for beings other than humans removes obstacles to their mass destruction. Within worlds in which human and nonhuman persons are linked through complex systems of law, treaties, protocols and long-standing relations, this claim is illogical. Within Western settler states, however, it functions as a means of justifying ongoing violence against Indigenous peoples and their relations. In addition, by framing extinction as a problem for a universal figure of ‘humanity’ (more on this to follow…) mainstream discourses of extinction obscure its profound entwinement with race and racializing structures. These examples make it clear that eliminative violence is targeted on specific groups of people and their other-than-human relations, as defined by the aggressors. Indeed, patterns of genocidal violence extend racializing categories, hierarchies and eliminative impulses to other-than-human peoples. Just as approaching gender violence separately from race effaces their intersection, understanding extinction as distinct from race is deeply misleading. This is not only because racialized people are more likely to suffer from the effects of ‘extinction’ and other forms of environmental racism (which they are). It is also because the eliminative violence that drives extinction extend and enact race beyond the category of homo sapiens by defining particular groups against white settler norms and as threats to the settler society. To approach extinction separately from issues of race is, therefore, to miss one of its most defining features. Extinction is not a metaphor – in many cases, it is quite literally genocide enacted against Indigenous peoples and their other-than-human relations. To treat it as a metaphor is to obscure and participate in the structures of violence that drive it. From this perspective, in addition to active decolonisation efforts, and the resurgence of Indigenous peoples, addressing extinction also requires attacking the genocidal, racializing, eliminative logics that are diffused throughout settler (and other) states. It also requires honouring the unique relations, worlds and peoples that are targeted by these discourses and practices.

#### This requires you adopt an ethic of incommensurability in making comparisons and evaluating argumentative burdens

Tuck & Yang 12 (Eve Tuck, Associate Professor of Critical Race and Indigenous Studies, Ontario Institute for Studies in Education, University of Toronto, Canada Research Chair of Indigenous Methodologies with Youth and Communities, William T Grant Scholar and former Ford Foundation Postdoctoral Fellow, is Unangax and an enrolled member of the Aleut Community of St. Paul Island, Alaska, and K. Wayne Yang, University of California, San Diego, “Decolonization is not a metaphor,” Decolonization: Indigeneity, Education & Society, 1(1), 2012, <http://decolonization.org/index.php/des/article/download/18630/15554>)KMM

Conclusion An ethic of incommensurability, which guides moves that unsettle innocence, stands in contrast to aims of reconciliation, which motivate settler moves to innocence. Reconciliation is about rescuing settler normalcy, about rescuing a settler future. Reconciliation is concerned with questions of what will decolonization look like? What will happen after abolition? What will be the consequences of decolonization for the settler? Incommensurability acknowledges that these questions need not, and perhaps cannot, be answered in order for decolonization to exist as a framework. We want to say, first, that decolonization is not obliged to answer those questions - decolonization is not accountable to settlers, or settler futurity. Decolonization is accountable to Indigenous sovereignty and futurity. Still, we acknowledge the questions of those wary participants in Occupy Oakland and other settlers who want to know what decolonization will require of them. The answers are not fully in view and can’t be as long as decolonization remains punctuated by metaphor. The answers will not emerge from friendly understanding, and indeed require a dangerous understanding of uncommonality that un-coalesces coalition politics - moves that may feel very unfriendly. But we will find out the answers as we get there, “in the exact measure that we can discern the movements which give [decolonization] historical form and content” (Fanon, 1963, p. 36). To fully enact an ethic of incommensurability means relinquishing settler futurity, abandoning the hope that settlers may one day be commensurable to Native peoples. It means removing the asterisks, periods, commas, apostrophes, the whereas’s, buts, and conditional clauses that punctuate decolonization and underwrite settler innocence. The Native futures, the lives to be lived once the settler nation is gone - these are the unwritten possibilities made possible by an ethic of incommensurability. when you take away the punctuation he says of lines lifted from the documents about military-occupied land its acreage and location you take away its finality opening the possibility of other futures -Craig Santos Perez, Chamoru scholar and poet (as quoted by Voeltz, 2012) Decolonization offers a different perspective to human and civil rights based approaches to justice, an unsettling one, rather than a complementary one. Decolonization is not an “and”. It is an elsewhere.

### Case

#### Empirics flow neg – India’s medicinal R&D flourished directly post-TRIPs.

Chaudhuri 07 Sudip Chaudhuri Professor of Economics, Indian Institute of Management Calcutta, “Is Product Patent Protection Necessary in Developing Countries for Innovation?: R&D by Indian Pharmaceutical Companies after TRIPS”, September 2007, <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.297.8369&rep=rep1&type=pdf> | MU

II R&D: Quantitative and qualitative changes Traditionally, the Indian pharmaceutical industry spent very little on R&D. In the early 1990s, its R&D expenditures amounted to only about 1.5 % of sales (Grace 2004, p. 37). Even larger companies such as Ranbaxy and Dr Reddys Laboratories spent only 2-3% of their sales on R&D in 1992-93.5 Since then, however, and particularly since the early 2000s, there has been a substantial increase in research spending in a segment of the industry. In Table 1, I have considered the R&D expenditure for two sets of companies – (i) 28 major R&D spenders and (ii) the remaining 81 companies out of the 109 companies for which R&D data have been reported in the data base.6 For the later group, R&D expenditure as a percentage of sales continues to fluctuate around 1%. In 2005-06, the proportion was only 1.2%. But for the group of 28 major spenders, R&D expenditure has increased steadily from 1.78% of sales in 1992-93 to 3.86% in 2001-02, and then sharply to 7.83% in 2004-05 and 8.79% in 2005-06 (Table 1). In this paper I focus on this more dynamic segment of the Indian pharmaceutical industry for which R&D expenditure has substantially increased. Ranbaxy is the largest R&D spender in the Indian pharmaceutical industry. In 1994-95, when TRIPS came into effect, it spent Rs 365.8 million on R&D (4.61% of its sales).7 Initially the increase was moderate with R&D expenditure reaching 5.5% of sales in 2002-03. But thereafter it shot 4 up to 9.35% in 2004-05 and 17.21% in 2005-06 with an expenditure of Rs 6339.3 million. For Dr Reddys the second largest R&D spender, expenditure increased steadily and sharply from Rs 39.8 million (2.01% of sales) in 1994-95 to Rs 2977.9 (17. 12 %) in 2004-05. The following year, the company’s R&D expenditure declined to Rs 2539.5 million, but it still constituted 10.85% of its sales. Among the other major spenders, between 1994-95 and 2005-06, R&D expenditure has increased for Sun from 4.05% to 11.93%, for Torrent from 2.68% to 11.74%, and for USV from 0.73% to 10.74% of sales. There are 9 companies with the R&D proportion exceeding 10% of sales in 2005-06 (Table 2). The larger Indian pharmaceutical companies are among the largest investors in R&D among all industries combined in India. Each of the top five R&D spenders in corporate India are pharmaceutical companies - Ranbaxy, Dr Reddys Laboratories, Sun and Cipla. The only non-pharmaceutical company is the second ranked Tata Motors which spends about 2.3% of its sales on R&D. Ten of the top 20 Indian R&D spenders in India are pharmaceutical companies (Business World, 25 December, 2006). The objectives of R&D conducted by Indian companies can be broadly classified as follows: • Development of new chemical entities (NCEs) • Modifications of existing chemical entities to develop new formulations, compositions, combinations (also known as incrementally modified drugs) • Development of generics (that is, development of processes for manufacturing active pharmaceutical ingredients (APIs) and development of formulations to satisfy quality and regulatory requirements for marketing patent-expired drugs).8 A remarkable feature of pharmaceutical R&D in India is that about eleven companies are involved in NCE R&D. In Section III, we will focus on the status and the implications of that activity. We will discuss how Indian companies still do lack the necessary skills and the funds to carry out such R&D independently And how they are partnering with the MNCs and other companies from developed countries. The R&D partnering agreements have typically provided that the developed country partner has commercial rights in designated developed country markets and must pay royalties to Indian companies in the event the product is successful. The Indian company, in turn, holds the commercial rights in remaining countries, including India. 5 If the product developed under a partnering agreement is successful, the Indian company will typically earn significantly more from the Indian market than during the pre-TRIPS era when India had no product patent protection. Not unexpectedly, therefore, patenting activity has gone up sharply after India started accepting patent applications under the mailbox facility after TRIPS (Mueller, 2006, pp. 158-161).

#### Waiving IP rights will not lower prices

Hilty et al. 21 [Dr. Reto M. Hilty is Director at the Max Planck Institute for Innovation and Competition in Munich and a professor at Univ. Zurich, with a PhD from Univ. Zurich; Pedro Henrique D. Batista is Doctoral Student and Junior Research Fellow, Legal Manager GRUR Int. in the department Intellectual Property and Competition Law; Dr. Suelen Carls is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute for Innovation and Competition; Dr. Daria Kim is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute; Dr. Matthias Lamping is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute; Peter R. Slowinski, J.S.M. is Doctoral Student and Junior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute, “Covid-19 and the Role of Intellectual Property,” Max Planck Institute for Innovation and Competition, 5/7/21, <https://ipradiodigital.com.ng/wp-content/uploads/2021/05/2021_05_07_Position_statement_Covid_IP_waiver.pdf>) VM

“Concerns regarding vaccine prices are understandable, especially in view of inequalities among countries as far as access to healthcare is concerned. However, there are several reasons why a waiver of IP rights might not result in a substantially lower price for biosimilar versions compared to the currently supplied products. First of all, some current vaccine developers and manufacturers have publicly announced ‘not for-profit’ commitments. Even though there might be concerns that such commitments will eventually be lifted, prices are likely to stay at a competitive level, given that there is an increasing number of actual and potential substitutes and therewith competition.

Second, technological requirements for production of biosimilars result in higher costs of the development and manufacturing of biosimilars, compared to generic versions of small molecule drugs. Setting the production for the new vector and mRNA vaccines therefore requires substantial investments. Biosimilar and generic companies, just like originators, usually operate as for-profit entities. The market prices for such products therefore might not be significantly lower than the current prices for vaccines, but the waiver would benefit the commercial interests of the generic manufacturers first of all because they would be exempt from paying royalties. Even if generic manufacturers were prepared to limit prices to their own production costs, it is questionable whether such prices would be substantially lower than the current prices for vaccines supplied under the not-for-profit commitments. Unless the manufacturers of biosimilars commit themselves to sell at cost price, a waiver might benefit their commercial interest more than it would serve the public interest in affordable vaccines. Third, the cost of vaccine delivery alone – not including manufacturing – is considerable. In some cases, it can equal half of the vaccine market price. Every entity along the complex supply chain needs to be paid for products and services, irrespective of whether vaccines are IP-protected or not.In the abstract, there was certainly a risk of excessive prices when the vaccines were still under development. Such risk should have been addressed by governments in the framework of the contracts subsidising research on vaccines (see also below at 7), while affordability of vaccines should be approached as a matter of global solidarity (see also below at 10).”

#### Least-Developed Countries have exemptions from TRIPS and are building their own pharma industries. Indefinite exemptions would close off foreign investments, damaging the fledgling industry.

Bonadio 15 [Enrico Bonadio](https://theconversation.com/profiles/enrico-bonadio-132845) is a Senior Lecturer in Law, City, University of London, **“World’s poorest countries allowed to keep copying**patent-protected**drugs”, 24 November 2015,** <https://theconversation.com/worlds-poorest-countries-allowed-to-keep-copying-patent-protected-drugs-50799> **| MU**

The World Trade Organisation has agreed to [extend a waiver](https://www.wto.org/english/news_e/news15_e/trip_06nov15_e.htm) that allows poor countries to copy patented medicines. The waiver, which was due to expire in January 2016, has now been extended to 2033.

The countries that will benefit from the waiver are the 48 poorest nations, classified by the United Nations as “Least Developed Countries” or LDCs, and include many African and some Asian countries. About half of the 900m population across these countries live on less than [US$1.25 a day](http://unohrlls.org/about-ldcs/facts-and-figures-2/).

All other countries, including developing countries such as India and China, are still bound by the WTO’s agreement on trade-related intellectual property rights (or TRIPS) with respect to drug patents.

Higher disease burden

The waiver is critical for the least developed countries. Compared with richer countries, they have a much higher disease burden, especially infectious diseases such as HIV and malaria. In 2011, about [9.7m people](http://www.unaids.org/sites/default/files/media_asset/JC2474_TRIPS-transition-period-extensions_en_0.pdf) in these countries were living with HIV.

Keeping antiretrovirals affordable.

Many of the drugs that treat these diseases are still [under patent protection](https://theconversation.com/explainer-the-problem-drug-patents-pose-for-developing-countries-45667). Drug patents last for 20 years and allow drugs companies time to recoup their investment into research and development and turn a profit. Once the patent protection period ends, other drugs companies can then copy the drug and sell it as a generic medicine. These generics are much cheaper than branded drugs.

Developing a local pharma industry

Countries such as Uganda, Cambodia and Rwanda have already taken advantage of the WTO’s temporary waiver and begun to [develop their own pharmaceutical industry](http://allafrica.com/stories/201511091872.html). This has been helped by investments from drug companies in the developing world. For example, Uganda-based Cipla Quality Chemicals was originally a joint-venture between Cipla, a large Indian generics manufacturer, and the Ugandan government. It is the only company in Africa that makes triple-combination antiretroviral drugs.

Developing and strengthening manufacturing capacities in LDCs is important as these countries are often unable to import cheap copies of patent protected drugs from countries like India. India has many large generics firms within its borders and, although it ratified TRIPS in 1995, it only brought its patent laws in line with the treaty [in 2005](http://forbesindia.com/printcontent/29302). It too now has to respect international drug patents.

So the extension of the waiver is important, but it is only temporary, which doesn’t please everybody. Least developed countries and some NGOs would have preferred an [indefinite extension](http://www.ip-watch.org/2015/02/25/wto-least-developed-countries-request-waiver-of-ip-rights-on-pharma-products) or at least an extension until a country is no longer classified as a least developed country, rather than the set date of 2033. This position is [supported by the European Union](http://europa.eu/rapid/press-release_IP-15-5620_en.htm), but not by the US.

#### In the age of globalization – multilateral cooperation is necessary to prevent outbreaks.

Laxminarayan et al. 12 Ramanan Laxminarayan Ph.D., M.P.H is an economist and an epidemiologist. He is founder and director of the Center for Disease Dynamics, Economics & Policy in Washington, D.C. and senior research scholar at Princeton University, an affiliate professor at the University of Washington. “Cooperation is crucial to eliminate infectious disease”, June 2012, <https://www.scidev.net/global/opinions/cooperation-is-crucial-to-eliminate-infectious-disease/> | MU

Even non-neighbouring countries can experience huge gains from every country’s efforts. India’s smallpox eradication programme, which was supported by a global effort including the United States, failed initially because of an ineffective strategy, despite the long-term economic incentive. But the United States benefited by not having to carry out in-country vaccinations once smallpox was eradicated worldwide. [3]

When non-infected countries invest in vaccination efforts for infected countries, enhanced herd immunity in the long term benefits the global population.