# Real whole res ac

## fw

#### I affirm.

#### I value morality as the ought in the resolution implies moral obligation.

Hunt 18

(Dallas Hunt, PhD Candidate, University of British Columbia, Canada., Chapter 10 “Of course they count, but not right now”: Regulating precarity in Lee Maracle’s Ravensong and Celia’s Song, in Biopolitical Disaster Edited by Jennifer L. Lawrence and Sarah Marie Wiebe, 2018 Routledge, JKS)

“There is a hierarchy to care”: theoretical concerns and applications

In Frames of War (an extension and preoccupation with similar issues she outlines in her text Precarious Life), Judith Butler focuses on the ways in which particular, violent perceptions of everyday life are normalized and propagated as legible or granted “intelligibility” (through numbers, statistics, etc.). According to Butler, Frames of War follows on from Precarious Life ... especially its suggestion that specific lives cannot be apprehended as living. If certain lives do not qualify as lives or are, from the start, not conceivable as lives within certain epistemological frames, then these lives are never lived nor lost in the full sense. (2010: 1) For Butler, then, a primary concern is how these intelligibilities allow “a state to wage its wars without instigating a popular revolt” (xvi). Although Butler is writing within the context of the Iraq War and the “War on Terror,” her insights on precarity and modes of state violence exceed their immediate rele- vance. Indeed, as is clear below, the notions of war and settler-colonialism and the biopolitical rationalities they allow are eminently applicable to a local, Canadian context. The frames of war, Butler argues, are not circumscribed to combat zones with the mobilization of weapons. Instead, to Butler, “perceptual weapons” are acting on populations consistently to naturalize violences and enlist citizens to tacitly consent to (and, in some cases, actively participate in) violent forms that authorize dehumanization: “[w]aging war ... begins with the assault on the senses; the senses are the first target of war” (xvi). These perceptual violences resonate with Rob Nixon’s formulation of “slow violence” as well. To Nixon, slow violence is “a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all” (2011: 3). Further, and “[c]rucially, slow violence is often not just attritional but also exponential, operating as a major threat multiplier; it can fuel long-term, proliferating conflicts in situations where the conditions for sustaining life become increasingly but gradually degraded” (4). Conditioning the senses or what is intelligible, then, functions as the way in which state violences are legitimized, as the frames of war dictate the “sensuous parameters of reality itself” (ix). According to Butler, the task at hand is not only to “understand ... these frames, where they come from and what kind of action they perform” (2010: 83), but also to find and articulate “those modes of representation and appearance that allow the claim of life to be made and heard” (81). While Butler is exam- ining conditions of precarity, (in)security, and disposability in the context of “the War on Terror,” and Palestine–Israel, her examination of an imperial/ colonial power exerting force and enacting violence on vulnerable and racialized populations (and in the process producing and reproducing these vulnerable populations) can be fruitfully employed in the Canadian context, though not without some alteration. Although we may not perceive the more mundane, i.e. non-military, violences visited upon Indigenous communities as “war” strictly speaking, Sora Han’s oft-cited phrase that we must think of the United States (and settler-colonial nations more broadly) not “at war” but “as war” is useful here (cited in Simpson 2014: 153, emphasis in original). If we view the biopolitical man- agement of Indigenous populations and Indigenous territories as rationalities rooted in the organizing frame of settler-colonialism, then the states of emer- gency putatively thought to be produced through war are “structural, not eventful” – that is to say, war is the very condition of settler-colonialism and not a by-product of it (154). Indeed, the largest ever domestic deployment of military forces in North America took place within Canada, in the context of the so-called “Oka crisis.” As Audra Simpson writes, the “highest number of troops in the history of Indigenous-settler relations in North America was deployed to Kanehsatà:ke, as this was the most unambiguous form of exceptional relations, that of warfare. There were 2,650 soldiers deployed...” (2014: 152). And, as Roxanne Dunbar-Ortiz and others have noted, Western imperial powers still refer to “enemy territories” abroad as “Indian Country” and to “wanted terrorists” as “Geronimo” (2014: 56). I follow the lineages of these Indigenous theorists who view settler-colonialism as a kind of permanent war, drawing parallels between the so-called everyday violences (displacement, sexual violence) inflicted upon Indigenous peoples in the US and Canada and the death-delivering reaches of empire embodied by the West more globally. Or, to echo Mink, the transformer/shapeshifter narrating the events in Mara- cle’s Celia’s Song: “This is war” (2014: 9). For Butler, there are varying tactics for distributing “precarity” differently, or what she describes as “that politically induced condition in which certain populations suffer from failing social and economic networks of support,” producing a “maximized precariousness for populations ... who often have no other option than to appeal to the very state from which they need protec- tion” (2010: 26). In the depictions provided in her writing, as well as that of Maracle, violence is deployed not only as “an effort to minimize precarious- ness for some and to maximize it for others,” but also as a mode of shaping the perceptions of citizens in order to make such acts legible, and hence, in a sense justifiable (Butler 2010: 54). Ultimately what Butler is advocating for is a new ethico-political orientation, one with the potential to disrupt the violent regimes of the sensible, as well as the ways in which precarity is currently allocated and distributed. Paraphrasing Jacques Rancière, Jeff Derksen also advocates for political movements that disrupt “regimes of the sensible”: “a politics of the aesthetic could ... redistribute and rethink the possibility of the subject (potentially an isolated figure) within the present and within a com- munity to come” (2009: 73). In sum, Butler’s text illustrates the ways in which State-sanctioned (and induced) precarity “perpetuate[s] a way of dividing lives into those that are worth defending, valuing, and grieving when they are lost, and those that are not quite lives” (2010: 42), as well as the resistive practices that might disrupt the naturalization of “differential distribution[s] of pre- carity” (xxv). The remainder of the chapter considers to what extent Mara- cle’s texts offer such a disruption of the mundane frames of settler-colonial war within the context of an exceptional moment (an epidemic), and asks how her work gestures toward the alternatives that might be offered by Indigenous frames.

#### You are conditioned to discount structural violence because it occurs outside of traditional risk frames, which normalizes state-sanctioned violence.

#### Thus, the standard is minimizing structural violence.

## adv 1 is access

#### Covid cases and deaths are at an all-time high and rising in developing countries.

Murdoch 21, John Burn-Murdoch, 7-18-2021, "Delta variant takes hold in developing world as infections soar," No Publication, https://www.ft.com/content/fa4f248a-a476-491d-a5ce-f128360e9f24

The Delta coronavirus variant that has rapidly become dominant across much of the world is exacting a grim toll on dozens of developing countries, where vaccination levels are insufficient to prevent a surge in cases from becoming a wave of deaths. As economies in Europe and the US that have successfully weakened the link between infections and deaths have started to reopen, poorer countries with low vaccination rates are in some cases entering their worst phase of the pandemic. “The world thinks this epidemic is over,” said Fatima Hassan, founder of South Africa’s Health Justice Initiative. “But we still don’t have enough vaccine supplies in the system despite the global realisation that the Delta variant is so devastating.” The Delta variant first identified in India accounts for 95 per cent of cases in South Africa where the genetic code has been sequenced. Fewer than 3 per cent of people are fully vaccinated in South Africa, where the rollout of the jab has been hampered by supply failures and, more recently, a wave of political violence. Ninety-nine per cent of sequenced cases in Indonesia, where just 6 per cent of the population is fully vaccinated, are the Delta variant. Both South Africa and Indonesia have reported record numbers of cases this month. In Indonesia, the total of 54,517 cases recorded on July 14 alone was four times the level in January. The same pattern is evident across much of Africa, which last week recorded a 43 per cent week-on-week rise in Covid-19 deaths, according to the World Health Organization. Five countries — Namibia, South Africa, Tunisia, Uganda and Zambia — accounted for 83 per cent of the deaths. Africa has recorded 1m new cases over the past month, the shortest time it has taken to add that number, bringing total infections across the continent above 6m. “The double barrier of vaccine scarcity and treatment challenges is seriously undermining effective response to the surging pandemic,” said Matshidiso Moeti, the WHO’s regional director. In contrast, Namibia, with only 1.2 per cent of the population vaccinated, is recording one death for every 22 cases. Namibia’s daily rate of 28 Covid deaths per 1m people is the highest in the world, and far above peak levels recorded in the UK and Italy. In South Africa, the situation is especially acute in Gauteng province, where not only cases but hospitalisations and deaths have reached record levels. There are more than 8,000 Covid patients in the province’s hospitals, with more than 100 deaths a day. Hassan, of the Health Justice Initiative, said vaccine suppliers, which had not fulfilled their contracts to South Africa and some other poor countries, bore a huge responsibility for what she described as an engulfing crisis. In South Africa, months of lockdown had contributed to the anger that recently poured on to the streets in a wave of looting and destruction, she said. “Had we had enough vaccine supplies a few months ago we would have been in a much better position to mitigate the impact of the Delta variant,” she said. “Vaccine companies get to play God in a pandemic. Where is the world? Why don’t they send us 50m vaccines? We really need it, right now.”

#### Patents are the only barrier to production.

OECD 21, OECD, 2-4-2021, "Coronavirus (COVID-19) vaccines for developing countries: An equal shot at recovery," https://www.oecd.org/coronavirus/policy-responses/coronavirus-covid-19-vaccines-for-developing-countries-an-equal-shot-at-recovery-6b0771e6/

While several developing countries have the capacity to manufacture vaccines, intellectual property (IP) rights and limited technology transfer remain barriers to build local production capacity. Intellectual property rights (IPRs) [and] are regularly cited as a constraint to scaling up access to vaccines in developing countries. At the same time, the sharing of technical knowledge, expertise and know-how is increasingly seen as critical for a joined up response to the current crisis. Global health security has long been recognised as a global public good, whereas vaccines are private goods that are “excludable and rival”. Despite the strong arguments in favour of sharing IP widely or at no or low cost, G20 leaders in 2020 called for voluntary licensing of intellectual property6 (OECD, 2020[3]; G20, 2020[34]). Alternatively, the Chair of the WHO Solidarity Trial of COVID-19 treatments, among others, has argued for a “partnership model”, where individual companies would be encouraged to grant non-exclusive licences and technology transfer of their products, along the lines of the agreements that AstraZeneca and Novavax have established with the Serum Institute of India for vaccines (Usher, 2020[35]). Many high-income countries have so far opposed more ambitious proposals for making IP widely available (Usher, 2020[35]). Beyond rights to vaccine production, analysis of the trade-related impacts of the COVID-19 crisis on developing economies highlights a broad range of negative effects, from severe disruptions to supply chains and falls in GDP, to restrictions on the movement of people, goods and services (OECD, 2020[36]). Ongoing fragility could continue to have impacts on vaccine supply chains for developing countries. Available trade data on COVID-19 goods (such as medical devices and instruments, and protective equipment) reveals only a few, mostly OECD, countries are the main exporters and importers of certain goods required to fight COVID-19. Globally, over 86% of global exports are from just 20 countries.7 Smaller and developing countries are therefore heavily dependent on these suppliers, even if they have also proven their own ability to adapt when required, for example through rapid retooling to produce personal protective equipment and medical supplies. This underlines the importance of avoiding export restrictions, removing tariffs on essential goods and enabling wider trade facilitation (OECD, 2020[36]).

#### Failure to resolve vaccination causes poverty and deaths, worsening inequalities

PC 21, Public Citizen, 3-1-2021, "Backgrounder: WTO-Required Monopolies for Pharmaceutical Corporations Obstruct Global Production of COVID-19 Vaccines &amp; Treatment," https://www.citizen.org/article/wto-required-monopolies-for-pharmaceutical-corporations-obstruct-global-production-of-covid-19-vaccines-and-treatments/

The global vaccine apartheid unfolding right now could cost millions of lives and push tens of millions more into poverty. The devastation will be felt for a generation. A new International Chamber of Commerce report concluded that the world could face economic losses of more than $9 trillion under the scenario of wealthy nations being fully vaccinated by mid-2021, but poor countries largely shut out. Wealthy countries like the United States would bear nearly half of that hit. Vaccinating just half of low- and middle-income countries’ populations could reduce global losses by $5.5 trillion. To avoid the worst outcomes, the global supply of all COVID-19 medical goods — vaccines, treatments, and diagnostic tests — must be greatly increased. The good news is that countries with existing drug manufacturing capacity and expertise, such as South Africa, Argentina, Indonesia and others, could ramp up manufacturing of COVID vaccines and treatments to bolster global shortfalls. While the technologies for some COVID-19 vaccines are new, existing producers in the developing world may be able to scale up manufacturing relatively quickly, if the needed know-how and technology is transferred to them. The ability of producers in developing countries to manufacture complex vaccines has been repeatedly and wrongly dismissed. Existing vaccine production lines can be switched to making COVID-19 vaccines, and existing facilities can add new production lines. Clearly regional, pharmaceutical manufacturing hubs in developing countries could vastly expand global supply well before 2024.

#### **Patent rules reduce overall access of essential medicines resulting in mass deaths.**

Rojo 01, P Rojo, 2001, "[Access to essential drugs in developing countries]," PubMed, https://pubmed.ncbi.nlm.nih.gov/11858791/

Every year infectious diseases kill about 13 million people, about 30.000 deaths a day. Almost half of the victims are children younger than 5 years old, most of them belong to [in] developing countries. Most of the premature deaths and the incapacity cases associated to infectious diseases could be avoided if the poor had access to medicines. In the developing world, the poverty of the families, the inappropriate public expense and the lack of sanitary infrastructures get together to leave out of the reach of the poor the possibility of an adequate medical treatment. According to World Health Organization (WHO) in the developing countries about 2,000 million [2 billion] people lack access to essential medicines. The new patent rules of the World Trade Organization (WTO) will reduce even more access to essential medicines to the poor. Granting trade exclusivity rights to the owners of the patents for a period of at least 20 years limits the right of the governments to allow production, trade and importation of low cost copies (generics) of patented drugs. It is not a theoretical or far away menace. The application of these more strict rules has all ready caused serious problems to developing countries producers of generics as India or Brazil or to importers of these as South Africa or Kenya. They have been press, taken to court and threatened of sanctions by the pharmaceutical industry and some developed countries governments. The decision of some developing countries to fight for their most needed people’s health added to the international campaign for the access to essential medicines defended by some non governmental organizations like Act Up, Treatment Action Campaign, Doctors Without Borders and Intermon Oxfam have implied small victories on behalf of the poor countries access to medicines. But deeper changes in the patent rules and the investigation of the diseases of the developing world are needed to improve health in the developing countries.

#### Local production is key to accessible medicine – empirics prove

WHO 11, Local Production for Access to Medical Products: Developing a Framework to Improve Public Health, https://www.who.int/phi/publications/Local\_Production\_Policy\_Framework.pdf

Local production offers price-based competition in the market and improve affordability:. Firms in Bangladesh, Argentina and Indonesia demonstrate this well, by catering to between 60% (Argentina) and over 87% (Bangladesh) of the total local market. Clearly, market participation of local firms is not a direct indicator of improved access, and the key question is whether the local firms make a difference in terms of availability and affordability of medical products. This is important for all poor countries, where the majority of the population is unable to afford medicaments imported from developed countries. The Bangladesh study found in this case that local firms make a significant difference in promoting access to medicines for the local populations in both urban and rural areas. In Argentina and Indonesia, there is market segmentation between locally produced generics and branded medicines from multinational companies, offering wide availability of a variety of drugs. To support access, these governments source their public medicine procurement from local companies due to comparative cost advantages. Price comparisons in the diagnostics market are more difficult to interpret, as the quality of goods varies widely, with some products being ineffectual and misleading (e.g. see WHO & Special Programme for Research and Training in Tropical Diseases, 2011). • Local production has catered to local health needs: Firms in all the case studies catered to specific health needs by producing medicines for which there was local demand. These included antibiotics, anti-infectives, vaccines, antimalarials and ARVs. Firms in Bangladesh, Argentina, Indonesia and Uganda produce ARVs and antimalarials. Firms in Bangladesh are beginning to venture into vaccines for rabies, typhoid, tetanus and polio. Indonesian firms are specifically engaged in producing vaccines and heatresistant ARVs. The firms in Jordan and Argentina are expanding into product categories (including diagnostics), which resulted in incremental adaptations and improvements to existing products. • Local firms can produce products for local needs that either are not produced at all by the multinational companies or are in short supply: In these cases, such products [which] address diseases that disproportionately affect developing countries. Examples include production of paediatric ARVs by Indian companies, and production of the meningitis A vaccine by the Serum Institute of India. The Bangladesh firm Beximco is engaged in production of chlorofluorocarbon inhalers, which it also supplies to global procurement agencies. In Brazil, Bio-Manguinhos (Immunobiological Technology Institute), a unit of the Oswaldo Cruz Foundation (Fiocruz), supplies the public sector with diagnostic reagents and kits for HIV, leptospirosis, leishmaniasis, Chagas disease, dengue fever, hepatitis and rubella. • Local firms can be more adept at creating distribution networks that cater to the needs of poor people in remote areas: The existence of distribution networks and pharmaceutical supply chains is a starting point for the development of formulation capabilities in countries and expansion into other niche areas. Quality Chemicals, a Ugandan firm producing ARVs, was a distributor for Cipla’s medicinal products and has extensive distribution networks in rural Uganda. Similarly, most local companies are adept at using context-relevant strengths for distributing their products and in creating newer modes of distribution for their medicinal products. Historical narratives of the pharmaceutical sector show that many pharmaceutical firms in developing countries, including Bangladesh, Kenya and India, are offshoots of distribution companies.

## adv two is biopiracy

#### **Patent protections of TRIPS allows HICS to exploit LICS and indigenous communities for profit and corporate growth.**

Manaa 20, Skander Manaa, 7-18-2020, "BioPiracy: A Neocolonial Wolf in Sheep’s Clothing," Medium, https://medium.com/@skandermanaa/biopiracy-a-neocolonial-wolf-in-sheeps-clothing-f25c2b4cb547

At its core, the issue of biopiracy is a conflict between the developing world and its industrialised counterpart. Author and environmentalist Vandana Shiva denounces it as “creation of property through the piracy of others’ wealth[4]”, however it could be argued that biopiracy is actually substantially more than this, as the Earth’s shared primary resources often copyrighted are no person’s own, but rather a resource to be owned by the collective species. The North/South divide is pervasive in this issue, and beyond the idea of liberalising the world’s economy, it is actually a form of neo-colonialism. According to Shiva, the 1994 Uruguay Round of the General Agreement on Tariffs and Trade (GATT), as well as the creation of the WTO, have “institutionalized and legalized corporate growth based on harvests stolen from nature and people[5]”. The Uruguay Rounds were a way for the GATT to remove some of the obstinate barriers preventing the industrialised world from trading effortlessly with the South[6]. By incorporating both ideas and commodities into trade, the hope was that more nations could access the free market world. In order for this to happen, patent laws needed to be international, or different nations would be trading with identical patents, thus giving property rights to more than one entity. The resulting TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) convention therefore established minimum international standards on copyrights and patents[7] as well as new enforcements in Intellectual Property Rights (IPRs) through a multilateral legal framework. The industrialised world had much to gain from this agreement, as its technological supremacy had started to diminish, and countries found themselves wanting to protect their existing advances. However, by adopting the TRIPS, developing countries were forced into recognising the legality of IPRs from industrialised nations, meaning the developed world started the race to occupy the IPR sphere with a head-start, in the form of existing technological and patent progress, an abundance of well-funded companies seeking to capitalise on IPRs and the North’s entire colonial past. Therefore, the TRIPS had begun as an unfair agreement, allowing more developed countries to copyright entities from the developing world that had not yet been patented for economic, technological or cultural reasons, therein effectively stealing them from the South and giving the North a monopoly over the IPRs of biological entities. Unfortunately, the practice of biopiracy can be found in many places throughout the world, and all of them leave behind legal disputes, growing inequalities and most of all: victims. This text will examine the case of basmati rice in great detail, yet the scope of the issue doesn’t simply stop there. Shiva highlights a great number of cases where biopiracy has either happened or is happening. This includes the patenting of Neem’s fungicide properties[8], a tree native to the India whose qualities had been known about for thousands of years. She also points out the case of Indian melons, copyrighted by DeRuiter, and later Monsanto, in 2011[9], for their resistance to vegetal viruses. The breeding of resistant melons had been common practice, but ever since companies patented them, breeding has become illegal, as they are now recognised to be the company’s IPR. Biopiracy is rampant in India, mainly because of its extremely rich biodiversity, but the cases do not stop there. In 1995, University of Wisconsin researchers isolated the “brazzein” protein from an African plant[10], later finding a way to synthesise it to commercially produce a new artificial sweetener. This blatant appropriation of a common-place berry’s DNA means that Gabon’s own companies legally cannot use the protein unless royalties are paid. By colonising part of their intellectual heritage, the researchers are effectively denying the Gabonese control over their own cultural and biological heritage. The gravity of this case can be viewed through the lens of both dependency theory and modernization theory[21], one supporting the rights of developing countries not to see their resources flow into the coffers of the industrial world, and the other advocating for the shedding of cultural traditions in favour of ‘modern’, and usually industrial or capitalist, ways of living. Seen from the angle of modernisation theory, the more developed world wishes to see the developing world modernise and join it in a more liberal, capitalist and wealthy realm. From this perspective, it is precisely the struggle against the WTO, the GATT and IPRs that is slowing down progress in countries like India, when they could bridge the gap that exists by adopting a global, neoliberal market system. By imitating the US in their quest to patent biological entities, India and Pakistan could also earn great wealth. But they refuse and remain stuck in their ways of traditional norms and anti-neoliberal values. On the other hand, the dependency theory world view would reject the modernisation viewpoint on three main grounds. First, by refuting the idea of progress as that of following the North’s path. This linear understanding of history assumes that the industrial world’s endgame is objectively better than that of any other system, thus positioning countries like the USA as the epitome of progress, making it inherently subjective in its qualification of progress. Second, modernisation does nothing to recognise the colonial world’s head-start when it comes to IPRs, and their legacy of ownership throughout the world’s poorer countries, while these nations have no grounds to lay claim to anything their richer neighbours have or make. This innate power dynamic completely disrupts any chance of fair competition. Lastly, allowing for biopiracy, and even legalising it, has shown to and would only further the inequalities between the developing and industrialised worlds. Nations such as India would start behind their more developed competitors, accepting a western approach to modernity, and end up continuing the existing imbalanced dynamic of world trade.

#### **Biopiracy exploits indigenous communities for their own private benefits which increase inequality and restricts essential access in the developing world**

Mackey 12, Tim. K. Mackey, and Bryan A. Liang. 2012. "Integrating Biodiversity Management And Indigenous Biopiracy Protection To Promote Environmental Justice And Global Health". American Journal Of Public Health 102 (6): 1091-1095. doi:10.2105/ajph.2011.300408.

However, with expanded global economies made possible through multilateral agreements combined with international standardization of certain IPRs through TRIPS, serious questions regarding IPR distribution and biopiracy have arisen that relate to global equity and justice.5 Under the current system, WTO member states must implement minimum IPR protections, specifically including patentability of living organisms or their processes.2 However, these IPR processes, and the infrastructure to support them, are often beyond the capabilities of indigenous communities, significantly limiting their access to the legal rights afforded by these systems.11 This has formalized bioprospecting and allowed companies to gain IPRs for biodiversity forms and their chemical structures, including in the formulation of medicines. This process has often involved the exploitation of indigenous knowledge, which may prevent indigenous communities from realizing social and financial benefits.11 Indeed, even if bioprospecting and biopiracy only use small amounts of the biodiverse resource, uncompensated indigenous communities are often precluded from benefits that could underwrite important public health and biodiversity management efforts. Thus, although TRIPS has stimulated bioprospecting by pharmaceutical companies, it has also allowed [pharma companies] them to commercialize and monopolize the use of prospected resources without benefits sharing, which is biopiracy.11 This can have short-term and long-term implications for indigenous communities. Importantly, however, biopiracy activities have not been limited to corporations. They have also included unilateral actions by national governments without the consent of indigenous groups—for example, South Africa's Council for Scientific and Industrial Research's sale of hoodia (a cactus) to the pharmaceutical company Phytopharm while ignoring the indigenous communities’ economic and health access needs.11 Phytopharm later patented and sold it to pharmaceutical giant Pfizer for $21 million.11 Such case studies exemplify inequitable resource transfer for environmentally related resources. They also demonstrate the need to reexamine current global governance structures that magnify health disparities between developed interests and indigenous communities. However, the CBD's broad aims of public actor-led conservation, sustainability, and sharing of biodiversity benefits as state-based resources are in stark contrast to and conflict with the strong TRIPS private IPR incentives.2 Although the CBD establishes commercial value for biodiversity in developing countries, it also relies on state-based actors in these countries. These actors may not honor indigenous community rights or have sufficient institutional knowledge or capacity to protect biodiversity from the efforts of private, well-financed companies from developed countries to gain exclusive rights to these resources.13 Instead, private IPR efforts have predominated, and biopiracy has created a global imbalance of benefits sharing, use, and products between developed and developing countries, especially in access to development of pharmaceuticals.5 Indeed, under exclusivity provisions,7 IPR owners may prevent local communities from legally using their own indigenous knowledge and ethnomedicine, increasing locally produced medicine costs.7 This is especially dire for developing countries, whose limited resources may preclude access to pharmaceuticals and the health care infrastructures to use them, and it further widens the gap in health disparities between rich and poor. Developed countries also show a lack of cultural competence regarding indigenous communities’ IPR perspectives and understanding.7 The concept of private commercial rights to intellectual property and medicine is primarily an idea adopted by developed countries and may not be understood by indigenous communities.7 Such cultural nuances are not recognized by the current international IPR system,13 where rights are governed by global legal regimes that do not allow local communities to be represented; consequently, indigenous community needs may not be heard or met.14 BIOMEDICAL RESEARCH AND the discovery and development of medicines often focus on naturally occurring materials for products and applications. Searching for such compounds in diverse environments (e.g., rainforests, deserts, and hot springs) is deemed “bioprospecting.”1,2 Bioprospecting has resulted in key advances (e.g., making polymerase chain reaction processes stable for medical application) and has led to life-saving advances in medicines and population health.1 It has also established economic value for these resources and supported biodiversity conservation and indigenous communities.2 However, biopiracy occurs when bioprospecting is used to appropriate knowledge and biodiversity resources to gain exclusive use through intellectual property rights (IPRs) without benefits for indigenous populations.2,3 In addition to raising serious environmental justice issues, biopiracy adversely affects the health of local populations that fail to benefit from economic and medical gains derived from the biodiversity and indigenous knowledge that originated in their communities. The global health consequences of biopiracy include lack of access to medicines, failure to compensate for valuable traditional knowledge, and depletion of biodiversity resources that are needed by indigenous communities for their own ethnomedicine and health care. These impacts [which are] are particularly problematic because the health of these communities can be poor.

#### Current measures fail to protect indigenous communities and biodiversity. Mackey continues,

4 Because of the global nature of bioprospecting, biopiracy, and biodiversity, effective management—including environmental protection and sustainable development approaches—may be best performed through global governance. Global governance, however, has been ineffective in protecting biodiversity from biopiracy. Global IPR rules comprise domestic, multilateral, and supranational systems that establish minimum intellectual property standards. These global IPR systems focus on patent systems and private economic development under the World Trade Organization (WTO) TRIPS regime (Agreement on Trade-Related Aspects of Intellectual Property Rights) and on activities of the World Intellectual Property Organization. However, they [and] have failed to protect indigenous rights, promote access to life-saving drugs, prevent biopiracy, or provide for responsible biodiversity development.5–9 Governance relies on market forces and state entities of independent governments within a defined territory, which preclude the participation and protection of indigenous communities (both in developed and developing countries) that comprise groups of diverse social self-identification. This traditional state-focused governance model has not created incentives for developing countries to invest in adequate conservation, and thus, biodiversity resources in these countries are in danger of being depleted.4,6 In response, in October 2010, the UN Convention on Biodiversity adopted the Nagoya Protocol, which attempts to protect biodiversity and sets rules on how nations access and share biodiversity benefits.10 It successfully introduces key components of resource sharing of biodiversity benefits by establishing a framework for norms and rules that may be implemented by member states in the future. However, the protocol does not adequately address several concerns, including the following: a forum for indigenous peoples to adjudicate biopiracy claims, strong penalties to create disincentives for biopiracy, ensured indigenous access to developed drugs, promotion of the planning and implementation of sustainable biodiversity conservation and investment in public health infrastructures in developing countries, and adequate promotion of public–private partnerships (PPPs) that can leverage resources from both public and private stakeholders. We therefore propose a policy employing a joint health–economics committee, a World Health Organization (WHO)–WTO Joint Committee on Bioprospecting and Biopiracy, to address these equity issues and promote sustainable and responsible global governance in biodiversity management. Globalization and biotechnology have created vast, interdependent systems of economic trade in the life sciences. Accompanying this development is the globalization of intellectual property regimes, largely due to the efforts of organizations such as the WTO.9

#### **The patent system creates global imbalances, institutionalizing many forms of genocide towards indigenous communities**

Havemann 16, Paul Havemann, 2016, “Lessons from indigenous knowledge and culture: learning to live in harmony with nature in an age of ecocide”, State of the World’s Minorities and Indigenous Peoples, [https://minorityrights.org/wp-content/uploads/2016/07/Lessons-from-indigenous-knowledge-and-culture.pdf / Lessons-from-indigenous-knowledge-and-culture.pdf](https://minorityrights.org/wp-content/uploads/2016/07/Lessons-from-indigenous-knowledge-and-culture.pdf%20/%20Lessons-from-indigenous-knowledge-and-culture.pdf) WR TW

Paradoxically, indigenous and traditional communities – the very groups which have contributed least to the imminent threats of catastrophic anthropogenic climate change and biodiversity collapse, and whose practices are actually based on a sustainable bio-cultural paradigm – constitute most of those who are at greatest risk. This is in part due to existing social and economic marginalization: globally the indigenous population, estimated at around 370 million, comprises 5 per cent of the world’s population but 15 per cent of its poorest people. Climate change, [because] colonialism and economic globalization have also left a legacy of other issues, such as environmental damage, land loss and lack of access to basic services, that have not only resulted in ill health and lower life expectancy but also devastated their complex cultural systems. By 2115, it is estimated that between 50 and 90 per cent of the world’s 7,000 mostly indigenous languages will have died out. Many encode unique traditions and environmental knowledge that may disappear with them. The loss of these languages is evidence of a constellation of inter-connected processes of killing and destruction inflicted on indigenous communities for centuries: genocidal violence (killing of peoples), linguicide (death of languages), epistemicide (destruction of knowledge systems), cultural genocide (destruction of cultures) and ecocide (destruction of eco-systems). Despite this repression, indigenous and traditional knowledge remains vital to a large proportion of the world’s population, even if it receives little attention in the mainstream. Eighty per cent of the world’s biological diversity is found in the 22 per cent of global land area still stewarded by indigenous peoples, with modes of subsistence, consumption and care for nature based on their traditional bodies of knowledge. Furthermore, traditional livelihoods produce 10 per cent of the world’s meat and most of the fish that people consume. Small-scale farming based on agro-ecological methods informed by traditional knowledge provides 70 per cent of the world’s food needs. Yet despite the clear contribution of indigenous peoples to food security, biodiversity and other issues, there are many serious obstacles to their ability to secure their rights. Indigenous peoples are principally placebased peoples whose governance paradigm is bio-cultural, meaning they aim to live within the ecological boundaries of their territories through reciprocity and exchange. Since the fifteenth century this has placed indigenous peoples continuously on a collision course with the Euro-American paradigm of continued growth. Territorial and resource accumulation has been a constant feature of capitalism in its many guises – from overly violent conquests by imperial and colonial powers to the more opaque [and the] economic violence of neoliberal globalization. Accumulation by dispossession is needed for ever-more access to cheap land, labour and capital as well as knowledge. Crucially, the beneficiaries of this paradigm – local elites, governments, international corporations – have effectively been subsidized by passing on the ecological costs of this growth elsewhere. As a result, [and] while capitalist actors enjoy the most profit for the least effort and investment, the true cost of their destructive actions is felt by indigenous peoples and their distinctive cultures. During the fifteenth and sixteenth centuries, four genocides and inter-connected epistemicides / linguicides took place that still reverberate and are reproduced in power relations that perpetuate the elimination of the ‘Other’. The beneficiaries have been capitalist institutions of the global north and the European knowledge system. By the seventeenth century this knowledge system, based on a rationalist paradigm often characterized as western scientific knowledge, had become central to the globally hegemonic capitalist economic growth model. Consequently, most other forms of knowledge, denied recognition, became increasingly invisible and applied only in local contexts. Even in the twenty-first century, and all over the world, indigenous peoples are routinely murdered for defending their lands, languages, knowledges and cultures. A comparison between western scientific knowledge and traditional knowledges illustrates how different they are. Western knowledge systems privilege the quantitative and are learned in formal educational settings where knowledge is divided into a multitude of scientific specialisms. Humans are separate from eco-systems. As western scientific knowledge is positivist and results from an empirical methodology claiming to generate objective and replicable scientific truths, it is therefore asserted to be of universal application and is communicated through peer-reviewed publication. Discoveries cannot be owned, but most of the products of western scientific knowledge are susceptible to being commodified – owned and traded by inventors or corporations – as private intellectual property rights. By contrast, traditional knowledges flow from a holistic view in which human and eco-systems are one. Traditional knowledges have co-evolved from fine-grained observation and local experience. They are communicated orally, often through gender-specific communication, in the form of stories, rituals and traditional practices. Traditional knowledges are learned by observation, listening, doing and experience, and are normally shared inter-generationally within particular kin groups as they are encoded in local languages. No one owns this knowledge. Hence traditional knowledges and the cultural property of indigenous peoples are not congruent with the global intellectual property rights [ipr] regime of the capitalist growth paradigm, reflected in the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). As a result, the intellectual property rights regime has afforded them little protection. The misappropriation of traditional knowledges-based genetic resources and knowhow without indigenous peoples’ prior informed consent or benefit sharing is well documented. Table 1 gives a glimpse of products derived from biodiversity-rich eco-systems for which local peoples have seen little direct benefit. The spoils of bio-piracy come from a reservoir of traditional knowledges and know-how that is being exploited by modern multinationals. Profits from traditional knowledges thus represent a ‘subsidy’ by indigenous peoples to these corporations. Furthermore, the intellectual property rights regime treats culture and knowledge and nature as commodities or as commodifiable. In spite of the collision of knowledge systems, ‘traditional knowledge’ is referenced with varying degrees of specificity in a patchwork of international law and an even more eclectic array of state law provisions for the recognition of traditional knowledges and customary law, most of which are ‘honoured’ in the breach by states. Yet despite this growing recognition, states and international bodies still seem reluctant to implement these rights in practice – as reflected in the continued loss of traditional knowledges to corporate patents, for example. Indeed, much national and international legislation still appears to support the appropriation of traditional knowledges.

#### This ensures that diseases and poverty always disproportionately affect indigenous communities

UN 15, United Nations For Indigenous Peoples | Indigenous Peoples, 2015, "Health," https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/health.html

Alarming levels of diabetes. Worldwide, over 50 per cent of indigenous adults over age 35 have type 2 diabetes and these numbers are predicted to rise. In some indigenous communities, diabetes has reached epidemic proportions and places the very existence of indigenous communities at risk. Life expectancy up to 20 years lower. Indigenous peoples suffer from poorer health, are more likely to experience disability and reduced quality of life and ultimately die younger than their non-indigenous counterparts. The gap in life expectancy between indigenous and non-indigenous people in years is: Guatemala 13; Panama 10; Mexico 6; Nepal 20; Australia 20; Canada 17; New Zealand 11. Poverty, tuberculosis and lack of treatment. Tuberculosis, a disease that primarily affects people living in poverty, affects at least 2 billion people in the world. As a result of poverty, tuberculosis continues to disproportionately affect indigenous peoples around the globe. While programmes have been designed to combat tuberculosis, they often do not reach indigenous peoples because of issues related to poverty, poor housing, a lack of access to medical care and drugs, cultural barriers, language differences and geographic remoteness. Poor levels of health, acutely felt by indigenous women. Indigenous peoples experience disproportionately high levels of maternal and infant mortality, malnutrition, cardiovascular illnesses, HIV/AIDS and other infectious diseases such as malaria and tuberculosis. Indigenous women experience these health problems with particular severity, as they are disproportionately affected by natural disasters and armed conflicts, and are often denied access to education, land, property and other economic resources. And yet they play a primary role in overseeing the health and well-being of their families and communities. In addition, as the incidence of other public health issues such as drug abuse, alcoholism, depression and suicide increases, urgent and concerted efforts are needed to improve the health situation of indigenous peoples. Poverty and malnutrition. Poor nutrition is one of the health issues that most affects indigenous peoples around the world. In addition to circumstances of extreme poverty, indigenous peoples suffer from malnutrition because of environmental degradation and contamination of the ecosystems in which indigenous communities have traditionally lived, loss of land and territory and a decline in abundance or accessibility of traditional food sources. Self-determination, collective rights, crucial to indigenous health. To address the root causes of indigenous peoples’ health problems, there must be full recognition and exercise of indigenous peoples’ collective rights to communal assets and self-determination. Many mental health issues such as depression, substance abuse and suicide have been identified as connected to the historical colonization and dispossession of indigenous peoples, which has resulted in the fragmentation of indigenous social, cultural, economic and political institutions. Health systems appropriate for the indigenous context. Models of health care must take into account the indigenous concept of health and preserve and strengthen indigenous health systems as a strategy to increase access and coverage of health care. This will demand the establishment of clear mechanisms of cooperation among relevant health care personnel, communities, traditional healers, policy makers and government officials.

#### Patent reforms of the aff are key to reducing biopiracy

Shiva ‘99, Vandana Shiva, 8-5-1999, "Biopiracy," No Publication, https://www.iatp.org/news/biopiracy-us-patent-law-must-change

Biopiracy and patenting of indigenous knowledge is a double theft because first it allows theft of creativity and innovation, and secondly, the exclusive rights established by patents on stolen knowledge and steal economic options of everyday survival on the basis of our indigenous biodiversity and indigenous knowledge. Overtime, the patents can be used to create monopolies and make everyday products highly priced. If a patent system which is supposed to reward inventiveness and creativity systematically rewards piracy, if a patent system fails to honestly apply criteria of novelty and non-obviousness in the granting of patents related to indigenous knowledge then the system is flawed, and it needs to be changed. It cannot be the basis of granting patents or establishing exclusive marketing rights. The problem of biopiracy is a result of Western style IPR systems, not the absence of such IPR systems in India. Therefore, the implementation of TRIPs, which is based on the U.S. style patent regimes, should be immediately stopped and its review started. The promotion of piracy is not an aberration in the U.S. patent law. It is intrinsic to it. The U.S. laws [that] were originally designed to pirate or borrow industrial innovations from England. Patents originally functioned as import franchises or import monopolies. Patents were given for salt manufacturers, for operating steamboats even though these were not invented in the U.S. Since patents are granted for new inventions, denial or non-recognition of 'prior art' elsewhere allows patents to be granted for existing knowledge and use in other countries. This is the basis of biopiracy or knowledge of Indian knowledge systems, and indigenous uses of biological resources being patented. The U.S. style patent laws can only pirate indigenous knowledge. They cannot recognise or protect it. The survival of an anachronistic Art. 102 thus enables the U.S. to pirate knowledge freely from other countries, patent it, and then fiercely protect this stolen knowledge as "intellectual property". Knowledge flows freely into the U.S. but is prevented from flowing freely out of the U.S. If biopiracy has to stop, then the U.S. patent laws must change, and Article 102 must be redrafted to recognise prior art of other countries. This is especially important given that the U.S. patent laws have been globalised through the TRIPs agreement of the WTO. In 1999, Article 27.3 (b) of the TRIPs agreement is supposed to come up for review. This is the article that most directly impacts indigenous knowledge, since it relates to living resources and biodiversity. In 2000 A.D. countries can also call for an amendment of TRIPs as a whole. Since TRIPs is based on the assumption that the U.S. style IPR systems are "strong" and should be implemented worldwide, and since in reality the U.S. system is inherently flawed in dealing with indigenous knowledge and is "weak" in the context of biopiracy, the review and amendment of TRIPs should begin with an examination of the deficiencies and weakness of Western style intellectual property rights systems. A globalised IPR regime which denies the knowledge and innovations of the Third World, which allows such innovations to be treated as inventions in the U.S., which legalises monopolistic exclusive rights by granting of patents based on everyday, common place indigenous knowledge is a regime which needs overhaul and amendment.

## underview

#### 1. 1AR theory is legit

#### A~ AFF gets it because otherwise the neg can engage in infinite abuse, making debate impossible

#### B~ Fairness and education are voters – debate’s a game that needs rules to evaluate it and it teaches portable skills that we use lifelong

#### C~ Drop the debater – the short 1AR irreparably skewed from abuse on substance and time investment on theory

#### D~ 1AR theory first – it’s a bigger percentage of the 1AR than neg theory is of the 1NC which means the abuse was probably worse and only the 2NR has time to win multiple layers