# 1ar

## T

[1] I meet - putting the aff together + my authors is a form of organic intellectualism

[2] CI: The affirmative should defend the normative statement that the member nations of the WTO reducing IPPs for medicine is good. The negative should provide reasons that is not good. This allows a variety of argumentative reasons including performance.

[3] Their interp is severely underlimiting – the body is infinitely more permutable – there is a greater infinite of what a body could do – for every single reason for why I should implement a jobs guarantee, there are an infinite number of ways to perform that reason. Absent a caselist, you should default to their interpretation being much more unlimit than ours.

[4] There’s no briteline between expert vernacular and organic intellectualism.

[5] Scenario analysis is good – lets us understand the consequences of political actions which allows us to make decisions about them – also key to movement building

[6] Privileged confessionals are bad

[a] Rhetorical Codification DA – forcing us to pronounce our privileges and disadvantages only rhetorically enforces it. It codifies our understanding of ourselves without questioning the possibility of living in relation to and away from particular privileges.

[b] Structuralism DA – their interpretation forces discussions about the self rather than structures of power. Understanding violence as disparate and individualized prevents analyses of oppression that occur at a systemic level. The impact is bad activism – absent an interrogation of power, the formative question of identity and agency within revolutions remain unanswered. Focus on individuals denies the possibility of revolutionary change.

## Case

### O/V

Biocolonialism is an institutionalized extension of settlerism that is legitimized by MNCs through the piracy of traditional Indigenous knowledge under the protections of patents. This creates a power imbalance that causes cultural genocide in line with the notion of terra nullius.

The plan solves – it ends patents on medicines derived from Indigenous knowledge which serves as a termination of the “ethical right” to Indigenous knowledge that MNCs believe they have over the “global commons” of Indigenous land and property.

### LBL

o/v on all the k links on case– hold the line – the 1AC is not traditional settler colonial studies which their ev indicts

the no solvency arg – aff solves – a) indigenous legal systems prosecute b) durable fiat – it’s good otherwise infinite debates ab processes c) no patents = no icnetivize 0 that’s all the breske cards

circumvention arg – false – indigenous conception – IPW ev proves they work hand & hand w nations – acquisition doesn’t trigger impacts bc it proves indigenous people have self-determintation – 2nr explanation will j be like “indigenous people cant make their own decisions” which is problematic

conced mukaka – justifies perm – k2 creating new legal strategies

warren – African indigenous tribes too

## CP

1] Perm do the CP - Not comp & plan +

A] IPW ev is Indigenous communities gflobally advocating for the plan

B] Indigenous nations are nations that are not part of the WTO which means the plan does not effect Indigenous IPRs which the CP talks ab

2] doesn’t solve – no guarantee member nations agree – they didn’t read ‘say yes’ ev – don’t let them say you don’t either – aff fiats it happens – at best they can fiat that communites call for it, but can’t fiat passing

3] perm do aff then alt – systemic restructuring first

## K

**Framework - Let me weigh the consequences of the aff as informed by our research – two impacts – a) testing – our model forces the negative to compare the theoretical benefits of the K with the material tradeoffs of the aff which replicates the way real world activists have to make choices, b) fairness – moots 6 mins of ac offense and forces a 1ar restart which kills engagement & turns their ROB – consequences are important – theyre only way to determine the importance of something – o/w– all arguments presume fairness matters.**

**The role of the ballot is to vote for the debater that endorses the best form of epistemic subsidiarity.**

**It o/w & comes first –**

**[1] it’s a legal framework that resolves the ontological disputes related to varying definitions of nature which o/w on specificity.**

**[2] It paves the way to protect spaces for expression of local autonomy and values and protects the legitimacy of local reasoning – that subsumes and controls the internal link to their ROB – [explain why].**

**[3] Only our ROB protects indigenous African knowledge as a form of countering conditions of enslavement**

**[4] lbl 1nc ev**

**Our scholarship is independently good –**

**[1] The arena of international relations is statistically biased against global Indigenous experiences – the 1AC is a radical injection of Indigeneity into white spaces which your authors would say is good.**

**[2] The K relegates indigenous experiences to the past which forecloses any possibility for change**

**The alt –**

**[1] permutation do both – research paradigms are not static, but fluctuating methods that are best combined –**

**[2] That avoids the co-option DA – vagueness – radical movements always co-opted unless explicit tangbibel action**

**Thesis -**

#### [1] Afropessimism is *ahistorical theoretical nonsense* that misses all the boats in terms of theorizing anti-black violence and *only* serves as a form of political demobilization which forecloses any possibility for black liberation.

**Dawson ’21** [Michael C., Prof. Michael C. Dawson is the John D. MacArthur Professor of Political Science at the University of Chicago, and founding director of its Center for the Study of Race, Politics, and Culture. His research interests include African-American political behavior, identity, and public opinion, the political effects of urban poverty, and African-American political thought and ideology, as distinct from that of white Americans. “Against Afropessimism”, 05-17-2021, https://www.ideology-theory-practice.org/blog/against-afropessimism]//pranav

Wilderson argues that blacks are not of the world, they are also not part of the “narrative,” not part of history. Wilderson states: “As provocative as it may sound history and redemption (and therefore narrative itself) are inherently anti-Black.”[11] For Wilderson, blacks are outside of history; “space and time” are absent: “just as there is no time for the Slave, there is also no place for the Slave.”[12] In asserting that black people are outside of history, Wilderson is making the claim that Blackness is irrevocably marked as slaveness—there is no historical change in the meaning of blackness and position of black people. In Afropessimism, for example, Wilderson claims that “Afropessimism is premised on an iconoclastic claim: that Blackness is coterminous with Slaveness.”[13] “Blackness,” Wilderson emphasises, “cannot exist other than Slaveness”.[14] **This is not so much an iconoclastic claim as a false one.** It is true, of course, that Black lives after slavery continued to be marked by domination and violence. The spectre of extreme violence aimed at individuals and black communities, the expropriation that marked share cropping in the rural south, the super-exploitation of black industrial workers, the precarious position of black women performing paid and unpaid domestic labour, and the continued vulnerability of black women to all of the above as well as gender-based domination, all serve to emphasise the continuities of domination. But while there were important continuities between in the condition of black people during and after slavery, **the rupture caused by the end of slavery nonetheless represented a massive change in how black life was organised—a reorganisation that transformed the articulation between white supremacy and the capitalist social order.** **The end of slavery presented new and important opportunities for black agency even if full “freedom” was not achieved. It was marked by the formation of black civil society, the emergence of new possibilities as well as new challenges for black politics**. It was during this period that the institutional backbone of black civil society was developed—including the black church (which was as much a political institution as a sacred one); black institutions of higher learning; cooperative and mutual aid societies; and. a myriad of other organisational initiatives. **All were launched and/or consolidated during this period. The ability to form families, expand black politics,**

**and build black civil society represented a type of real if limited progress.** Further, Wilderson’s claim that the black condition is defined by “slaveness,” that blacks are not of the world, they are also not part of the “narrative,” not part of history is also profoundly anti-political. For Wilderson, blacks exist outside of the domain of politics: “The violence of the slave estate cannot be thought of the way one thinks of the violence of capitalist oppression. It takes an ocean of violence to produce a slave, singular or plural, but that violence never goes into remission. Again, the prehistory of violence that establishes slavery is also the concurrent history of slavery. This is a difficult cognitive map for most activists to adjust to because it actually takes the problem outside of politics.”[15] **Wrong. What progress has been made has been the result of fighting through social movements that, as Malcolm X urged, used any means necessary.** **Fighting oppression is inherently political. The anti-political nature of Wilderson’s central claim casts aside the momentous struggles of black people for liberation in the U.S., massive struggles for freedom throughout the African Diaspora, the 20th-century African national liberation struggles, as well as contemporary African struggles against neocolonialism, neoliberal regimes, and against the new imperial project of redividing Africa.** Perhaps the most immoral implication of Wilderson’s claim that slaveness defines blackness is that the human is defined against blackness. **If blacks are not human then it is easier to claim that black people are outside of history, and blacks are outside the realm of politics.** For Wilderson, all human life is defined in opposition blackness, in opposition to the condition of being a slave. Wilderson explains, “Human Life is dependent on Black death for its existence and for its conceptual coherence. There is no world without Blacks, yet there are no Blacks who are in the World.”[16] **This claim places Wilderson outside of both the black radical and black nationalist traditions.** **Black movements whether black liberal, black Marxist, or black nationalist fought and died insisting on Africans’ humanity**—although some, particularly but not exclusively many black nationalists, questioned the humanity of those that enslaved others. **Black movements have historically, and correctly, demanded a place in a world the recognition of one’s own humanity regardless of one’s status as enslaved, expropriated, and oppressed.** Finally and critically, **this version of Afropessimism severely mischaracterises the relationship between anti-blackness, white supremacy, and capitalism**.[17] Wilderson asserts that political economy is of little use for analysing the black condition as the condition of the slave, the condition of blacks, is subject to violence that cannot be explained by political economy. Further, the status of the slave is invariant to “historical shifts.” **I assert that only by understanding the interaction between the multiple systems of domination blacks are subject to—white supremacy (of which anti-blackness is a central structural feature), patriarchy and capitalism—will we be able to understand for any given era the status of blacks; the massive and multiple forms of violence that blacks experience, and the way forward toward full black liberation.** In **Afropessimism**, Wilderson only briefly considers the role of political economy in black subjugation. He argues that the use/study of political economy cannot explain the violence committed against blacks. This violence, Wilderson argues, is invariant across time. Specifically: “Black people exist in the throes of what historian David Eltis calls ‘violence beyond the limit,’ by which he means: (a) in the libidinal economy there are no forms of violence so excessive that they would be considered too cruel to inflict upon Blacks; and (b) in political economy there are no rational explanations for this limitless theatre of cruelty, no explanations that would make political or economic sense of the violence that positions and punishes Blackness….the Slave’s relationship to violence is open-ended…unaccountable to historical shifts.”[18] **What Wilderson misses is that blacks are subject to multiple sources of violence—the cumulative nature of which is monstrous.** Simultaneously analysing the articulation of white supremacy, patriarchy, and capitalism leads one to the realisation that blacks depending on context in various combinations experience violence as workers, women, and/or as black people. Each system of domination routinely inflicts violence for those at the bottom of each hierarchy. I would add that an aspect of white supremacy and anti-blackness is that for blacks even the forms of violence that derive from patriarchy and capitalism are intensified due to white supremacy**. This violence is also rational to the degree that each form of violence is ultimately aimed at reinforcing the rule of those at the top of each system of domination**. In a much earlier essay, Wilderson more directly addresses the relationship between capitalism and black subjugation. Wilderson asserts that “…the United States is constructed at the intersection of both a capitalist and white supremacist matrix.”[19] This statement is promising in that it hints at the simultaneous analysis of the interaction between capitalism and white supremacy. Yet, he does not sufficiently explore the consequences of this statement and does not analyse the actual dynamics created by the articulation of capitalism and white supremacy. For example, in Afropessimism Wilderson correctly asserts that “….the emergence of the slave, the subject-effect of an ensemble of direct relations of force marks the emergence of the capitalism itself.”[20] The “primitive” accumulation necessary for the establishment of the capitalist social order does have at its centre the brutal and hideous social relations of slavery and the slave trade, but not only slavery.[21] But unlike what Wilderson argues, the historical record shows that under white supremacy and colonialism blacks are not the only racially subordinate group to be subject to “direct relations of force.” As Ince argues, “direct relations of force” do not only mark the subject of the slave, but of the colonised more generally such as the genocide of the indigenous peoples of particularly the “New” World (itself a precondition of capitalism).[22] Establishing and maintaining capitalism has required the expropriation of resources and labour—simultaneously wedded to the violation of black, brown, and yellow bodies throughout the world. In the end, non-white bodies are disposable in the global North and South; in the ghettoes, barrios, reservations, prisons, refugee camps and immigration detention centres that can be grimly found throughout the world. The particularities are important—and anti-blackness is a key particularity that shapes capitalism and white supremacy, but as argued earlier, it still a part a global system of white supremacy marked by direct relations of force, and which non-whites are racialised differently by that force. Within the context of the U.S., only a type of stubborn blindness, a refusal to acknowledge the historical record, and refusal to see the interrelationship between capitalism and racial domination can lead those such as Wilderson to argue that “we were never meant to be workers…..From the very beginning, we were meant to be accumulated and die.”[23] This assertion flies against the historical evidence. No, blacks were meant to work, die, and be accumulated as need be. White supremacy often demands that blacks die. Capitalism demands that blacks must also, when necessary work and/or be accumulated. Each, and patriarchy as well, continually make their bloody demands. Through politics and other means of struggle blacks continually resist. This resistance can only be successful by understanding the mutual articulation between each system of domination. **What is at stake is far more critical than an abstract academic debate between theorists. These debates speak directly to how we understand Trump’s victory in the 2016 presidential elections and the racist, authoritarian and potentially fascist phenomenon of “Trumpism” and the rise of neo-fascist movements in the global north and south**. It speaks to how we best understand the accelerating rates of inequality in both the global north and south popularly described by Thomas Piketty.[24] **It speaks to how we understand the rising wave of violence that black folks face here, throughout the Diaspora, and within Africa itself.** **Afropessimists have an ahistorical narrative that distorts the relationship of white supremacy to capitalism—insisting despite all historical and contemporary empirical evidence to the contrary that the core logics of slave-based anti-blackness exists outside of, and ultimately invariant to, the dynamics of the capitalist political economy.** This strand of theorising has taken root in real-world activism—in this case among young black activists struggling once again for black liberation**. Afropessimism, however, presents real political dangers for those organising for black liberation.** I will mention three such dangers here. **By arguing that black subjugation lies outside the realm of the political, Afropessimism serves as a basis for political demobilisation rather than mobilisation.** Indeed, Wilderson is correct when he states, “This is a difficult cognitive map for most activists to adjust to because it actually takes the problem outside of politics.”[25] Second, **Afropessimism severely undermines those attempting to build solidarity with other racially subordinate groups.** Do we still need to be building independent radical black movements and organisations? Yes. Is building solidarity hard. Yes. Is one likely to experience anti-black racism from some other peoples of colour? Yes. **Is it still a necessary task if meaningful political victories are to be achieved? Yes.** Third, by ignoring the class and gender dynamics within black communities, Afropessimism makes it far more difficult to understand the dynamics of intra-black politics. Understanding these dynamics is crucial for fighting all forms of oppression and domination that are experienced within black communities. Afropessimists are correct to insist that the logics of racial domination are autonomous and not fully determined by a capitalist social order. Afropessimists fail to understand, however, the effects of the interaction of multiple systems of domination have on black life and politics. It is our task to forge better theoretical weapons to not only illuminate the nature of oppressive systems of domination, but also to provide effective tools to combat oppression.

# 1AC

## 1AC

#### Biocolonialism is an institutionalized *global form* of “*dispossession and conquest*” perpetuated at the will of multinational corporations through the piracy of traditional knowledge and resources in the name of “intellectual property rights” and “international patents”.

**Breske ’18** [Ashleigh, visiting assistant professor of international studies in the global politics and societies (GPS) department @ Hollins University. She earned her Ph.D. in planning, governance, and globalization at Virginia Tech, her M.A.L.S. in social sciences with a focus on Roman history from Hollins University, and her B.S. in biology with a concentration in classical studies and chemistry. Her current research explores how institutions and cultural values mediate changes in repatriation policy for indigenous cultural property, “Biocolonialism: Examining Biopiracy, Inequality, and Power”, Spectra, 6(2), pp.58–73. DOI: http://doi.org/10.21061/spectra.v6i2.a.6]//pranav

Through examples of epistemic exploitation and a review of current literature on biocolonialism, this paper will highlight issues of indigenous knowledge and resource appropriation and how they relate to neoliberal economic practices. According to Lorenzo Veracini, the least visible types of colonial subjugation, like informal colonialism and trade imperialism, are the most resistant to change.i **This is especially true for biocolonialism, which arises through the dominant discourse of neoliberal economic practices around the world.** This form of colonialism is based on the exploitation and extraction of traditional resources and knowledge through western conceptions of property ownership. Neoliberalism has created a polarization in the world through conflicts between ethnicities and socio-economic levels, resulting in a dichotomy between the Global North and the Global South. **Concepts of western legal practices, intellectual property rights, national property laws, and biotechnology innovations create a system of biocolonialism with the dominant North capitalizing on these policies and practices.**ii **This has adversely affected the Global South in many ways and acts as an ideology promoting profit and economic growth at the expense of the marginalized.** The shift to neoliberalism has increased the divide between the developed and developing world and the “ideology of the market, and the omnipresence of market forces, have left an indelible mark on the western conception of knowledge.”iii **Power is often in the hands of transnational corporations and lobbyist groups with the global economy becoming larger than individual nation-state economies.**iv Cori Hayden theorizes that bioprospecting is “an important site for thinking about how neoliberalism works.”v For Hayden, **biopiracy is an institutionalized practice garnering transnational capital**. In other words, the opening of the market on biodiversity is argued to be both a development strategy and an argument for conservation within an economic framework. For example, in Peru, foreign corporations have filed more than 11,690 patents on natural resources traditionally used by indigenous communities.vi **Corporate interest in medicinal plants and seeds stems from long-term economic goals.** This example illustrates the current trend of outside transnational corporations showing an interest in traditionally-used medicinal plants and seeds. **Within the globalized economy, free trade agreements create a power imbalance between multinational corporations (MNCs) and the indigenous communities holding traditional knowledges and resources.** **Since indigenous knowledge is disseminated among the community and no one person owns it in the western, legal sense,vii MNCs use bioprospecting projects in areas with rich biodiversity for future development of products.**viii It has been found that bioprospecting success rates greatly increase with the inclusion of indigenous knowledge or local guidance. These endeavors are financed as exploratory enterprises to find aspects of biodiversity and indigenous knowledge as resources that can be patented and used for future development. **Bioprospecting can be considered a form of colonization using a “knowledge-based economy” with profit sought through marginalized peoples and their traditional resources**.ix But, according to Hayden, **“[b]ioprospecting is the new name for an old practice: it refers to corporate drug development based on medicinal plants, traditional knowledge, and microbes culled from the “biodiversity-rich” regions of the globe—most of which reside in the so-called developing nations.”** (Hayden 2003, 1). **Bioprospecting can quickly lead to biopiracy, or the appropriation of traditional knowledge and natural resources without due compensation**.x Biopiracy—and by extension, the intellectual property and patent system—is essentially a new apparatus of power used by MNCs. Bioprospectors make claims on biological resources based on the assumption that the resources are available and open to everyone.xi **Initially, corporations present themselves as the protectors and innovators of these “universally” valuable resources.** They claim that if it were not for their investments, the information and original sources might be lost. **However, it was only after the development of international patents and free trade agreements that indigenous groups understood their exclusion from the economic yields gained by utilizing their knowledge.**xii Essentially, **biocolonialism, in the form of pharmaceutical and agricultural industry development by transnational corporations, is a “continuation of the oppressive power relations that have historically informed the interactions of western and indigenous cultures, and part of a continuum of contemporary practices that constitute forms of cultural imperialism.”**xiii More simply**, it is a form of dispossession and conquest through the lens of neoliberalism**.

#### Traditional patent law and IPP *legitimize* biopiracy’s control over dominated subjects, turning them into capital.

**Breske 2** [Ashleigh, visiting assistant professor of international studies in the global politics and societies (GPS) department @ Hollins University. She earned her Ph.D. in planning, governance, and globalization at Virginia Tech, her M.A.L.S. in social sciences with a focus on Roman history from Hollins University, and her B.S. in biology with a concentration in classical studies and chemistry. Her current research explores how institutions and cultural values mediate changes in repatriation policy for indigenous cultural property, “Biocolonialism: Examining Biopiracy, Inequality, and Power”, Spectra, 6(2), pp.58–73. DOI: http://doi.org/10.21061/spectra.v6i2.a.6]//pranav

**Through biopiracy, outside corporations and nations can quickly take resources and secure their control through international intellectual property rights and patents.** **The legitimation for these corporations stems from this westernized, neoliberal economy and the reduction in trade barriers that benefits the wealthier areas of the world at the expense of marginalized peoples**. Power over these populations becomes normalized as a conception of power over dominated subjects. Indigenous communities are generally smaller populations that remain on the margins within the nation-state until they are found to have economic value. Peripheral governance then becomes more pervasive in their lives under neoliberalism and the erosion of international trade barriers and increases in foreign investors. Under neoliberalism, market rationality is extended to all aspects of life. According to Wendy Brown, and her reading of Weber, there is nothing outside of the market. This is a system that allows for transnational entities to have greater control than individual sovereignties. The deregulation of the market, the elimination of tariffs and social safety nets, and an increase in the decimation of the environment and marginalized cultures are all hallmarks of neoliberalism.xvii **When societies and their traditional resources are incorporated into the economy, they become a form of capital**. Essentially, in relation to resources and traditional knowledge, neoliberalism’s desire for profit creates a political tension between national interests and globalized capital.xviii

#### This represents a form of *cultural genocide* of Indigenous peoples in line with the notion of terra nullius – anything else relies on Western preoccupations with objectivity that ignores the communal nature of Indigenous “ownership”.

Diver ’04 [Alice, Dr Alice Diver is a Senior Lecturer in Law at Liverpool John Moores University, who publishes in the areas of adoption, human rights, property law, and law in literature. She joined LJMU in September 2018, having worked as a Senior Law Lecturer and Programme Leader for the LLB (Law and Criminology) and as a Senior (Faculty) Fellow for L& T at EHU (2015-2018). Prior to that she was employed as a Lecturer in Law/TJI Associate Researcher, and Course Director for the LLB programmes (Magee campus) at Ulster University, N Ireland (2000-2015). She previously worked as a Solicitor in N Ireland in private practice (1989-1995) and as an Associate Lecturer in Law at NWRC (1993-2004). She is an alumna of Queen's University Belfast (LLB, 1984; LLM (Dist.), 2004) and gained a First class BA Hons in English Literature from Ulster University in 2017. She is the author of a 2013 monograph on origin deprivation, closed records and familial contact in adoption and surrogacy entitled 'A Law of Blood-ties: The 'Right' to Access Genetic Ancestry' (Springer) which is based upon her PhD (Ulster, 2012). She was co-editor of an international collection of essays on socio-economic rights: 'Justiciability of Human Rights Law in Domestic Jurisdictions'' (Springer, 2015). She has served as an EU-funded country reporter (UK, NI) for the Asser Inst./Utrecht University on matters of cross-border family law, in 2008 and 2017, contributing to an EU-wide guide for family law practitioners (2018). She was a co-convenor of the International Society of Family Law's Regional Conference in Derry, N Ireland (2010). She was a trustee of Londonderry Inner City Trust from 2012 -2016, and has been a trustee for Kinship Care NI since 2014, and a board member for Apex Housing NI since 2013. She has served as an external examiner for a number of LLB and LLM programmes throughout the UK and Ireland, since 1999, “‘A Just War’ - Protecting Indigenous Cultural Property”, 2004, [http://classic.austlii.edu.au/au/journals/IndigLawB/2004/43.html]//pranav](http://classic.austlii.edu.au/au/journals/IndigLawB/2004/43.html%5d//pranav)

* Also implicates 2nr “everyone dies” discourse – criticizes ‘greater good’ discourse and means that that discourse just turns native populations into “haphazard aggregations”
* Neg is assimilationist policy

When indigenous cultural property rights are defined by western concepts of ‘property ownership’, they risk the fate of indigenous land rights. Where entire continents were lost under terra nullius, indigenous peoples’ descendants now face a ‘cultural genocide’ with ‘discovered’ culture appropriated to benefit the ‘greater good’. Human rights issues resurface; would cultural property rights be better protected via segregation or ‘integration’ into majority cultures? Should rights be framed as collective ‘group’ claims or as ‘matters for individuals’?[2] If so, might cultural property be capable of ‘self-determination’? If ‘cultural secession’ occurs, demands for defined territories become paramount. Human Rights lawyers may have to revise emerging customary norms given recent cases highlighting western judicial bias, where European definitions of ‘land use’ disregard the nomadic, ‘hunter-gatherer’ nature of many indigenous populations, Anglo-western preoccupation with ‘alienability’ conflicts with the ‘perpetual’ nature of indigenous ownership[3] and the ‘individualistic orientation of Anglophone countries’[4] ignores the communal, ‘caretaker’ nature of aboriginal ownership. Although Mabo[5] appeared to extinguish terra nullius, its legacy lingers on. This paper examines whether legal ‘blemishes of the past ... translate into current inequities’. The ‘evolving character’ of international jurisprudence initially sought to justify colonialism’s ‘brutal settlement patterns’.[7] Early defenders of aboriginal rights[8] highlighted the ‘essential humanity of the Indians’[9] and ‘condemned’ colonial abuses, but nevertheless made ‘integrationist assumption(s)’[10] that colonisation was ‘an incessant trend, heralding a new era of progress and prosperity’.[11] The concept of ‘noble primitive, close to nature’,[12] needing fiduciary protection to use property correctly, runs through nineteenth-century American jurisprudence[13] and treaties.[14] These ‘constrained claims and kinds of remedies’[15] displaced the ‘personal and cultural identity’[16] of native people, who were forced to ‘adopt a view of themselves ... that fits with the rights-conferring political machinery of the state’.[17] With cultural property rights, loss of identity is pronounced, and the consequences profound; ‘what was fluid, changeable and non-material, becomes ... a predictable objective of a colonial state.’[18] Just as land was state-ceded in return for rights to ‘reserve’ some of it, the ‘contrivance of sameness’[19] now seems necessary to protect cultural rights. Assimilationist government policies, despite ‘politically correct language of participation and citizenship,’[20] frequently ‘deny difference’; underlying colonialism ensures that native populations remain ‘haphazard aggregations’[21] rather than distinct, rights-bearing state ‘beneficiaries’.

#### Colonialism implicates political systems globally – the 1AC’s anti-colonial practice re-asserts self-determination.

Cheeseman & Fisher ’19 [Nic Cheeseman is the Professor of Democracy @ the University of Birmingham, Jonah Fisher is a reader in African politics @ the University of Birmingham, “How colonial rule committed Africa to fragile authoritarianism”, 11-02-2019, Quartz Africa, https://qz.com/africa/1741033/how-colonial-rule-committed-africa-to-fragile-authoritarianism-2/]//pranav

But our new book, “Authoritarian Africa: Repression, Resistance, and the Power of Ideas”, paints a very different picture. We re-evaluate the political legacy of colonialism and find that it had a profound impact on African political systems. The colonial era strengthened the power of “Big Men” – powerful local leaders – over their communities. This undermined pre-existing checks and balances. In this way the colonial era helped institutionalize repressive forms of government. At the same time colonial rule also ensured that post-colonial leaders would face a major struggle to assert their authority. It did this by creating states with limited capacity to provide services and police their own territories. The unstable authoritarian pathway that so many states followed after colonial rule was no accident. It was facilitated by the ways in which European empires undermined democratic elements within African societies. Understanding the deeper impact of colonial rule is, therefore, important. Not only to give us a better sense of history, but also because it helps to contextualize the development of African polit ics ever since. Prior to colonial rule, many – though not all – African societies lived in relatively small groupings that were much smaller than modern, centralized states. In some cases, these societies didn’t recognize a strong central authority figure at all. This put limits on the extent to which power could be abused. The low population density meant that communities might move to another area if a ruler was excessively exploitative. These systems weren’t necessarily democracies. Power was often dominated by older, wealthier men. But, most were a long way from being centralized political systems capable of mass repression. Colonial rule fundamentally changed this picture in two ways. First, it created clearly demarcated national boundaries and a central authority structure, along with a more extensive bureaucracy and security forces. Thus, post-colonial presidents enjoyed the potential to wield power over a vast territory and diverse group of communities. Second, colonial governments typically lacked enough officials to effectively run their territories. To maintain political stability they therefore collaborated with – or subordinated – existing leaders and power structures. In many cases, this involved funding and arming willing collaborators to enable them to exert greater control over their communities. These leaders were expected to manage their communities and prevent a rebellion against colonial rule. It was more efficient for colonial governments to engage with fewer leaders who could deliver the support of a greater number of people. In addition, many colonial officials falsely assumed that Africans lived in tribal kingdoms. As a result, the process concentrated power in the hands of a relatively small number of “Big Men” and entrenched ethnic identities. Some African communities resisted the imposition of what they saw as illegitimate authority structures. In others, political entrepreneurs gave colonial regimes what they wanted in a bid to accumulate greater power. But, in both cases, the colonial era disempowered its “subjects”. It also laid the foundations for politics in many African states to become dominated by a struggle for power between the leaders of different communities. The birth of election rigging European powers also handed over a poisoned chalice at independence when it came to democratic institutions. Colonial governments had done little to create the conditions under which democratic politics could take hold and thrive. In some cases they even refused to hold elections until the eve of independence. Instead, they systematically sought to deny Africans their political and economic rights, and stymie the emergence of popular nationalist parties. This typically involved highly repressive laws. These enabled governments to censor the media, ban public meetings, and detain political leaders on flimsy charges. When colonial regimes came under threat, their default response was invariably intimidation and violence. All of these policies were enacted by states that were extremely centralized and in which the colonial governor wielded vast power. In a number of countries – including Kenya and Nigeria – colonial governments even attempted to manipulate elections to ensure that their allies would emerge victorious. The first rigged elections held on the continent were those organized by Britain and France. Rise of fragile authoritarianism This complex colonial inheritance gave rise to a set of governments characterized by fragile authoritarianism. On the one hand, the authoritarian structures fostered under colonialism meant that democratic constitutions were quickly undermined after independence. On the other, the social and political impact of colonial rule made it more difficult for governments to assert control. This tension led to the emergence of a set of political systems that typically struggled to establish a sustainable alternative to democratic rule. The challenges that post-colonial leaders faced were particularly difficult because they were multifaceted. There was the threat posed to them by rival Big Men. And there was also the fact that these leaders had inherited states that lacked an effective infrastructure or public services. They also inherited economies that were designed to extract value rather than create mass employment. Most African governments lacked the funds needed to make up for this deficit. This was made worse by the fact that the early 1970s saw a period of economic decline. As a result, building effective totalitarian regimes – in which the state uses repression and control over information to regulate all aspects of life – was often all but impossible. In this sense, post-colonial states reproduced a core feature of colonial rule: in the absence of a strong state, maintaining political stability depended on a combination of coercion and co-option. Leaders who understood the importance of this balancing act could stay in power for decades. Those who did not could be toppled in weeks. The past of the present Of course there is much more to Africa than fragile authoritarianism. And the way in which these legacies played out was not uniform. It was shaped by variations in the colonial power and the different strategies that the Belgian, British, French, and Portuguese deployed. The decisions of African leaders and the nature of the nationalist movement that fought for independence were also of great importance. For example, in two countries – Botswana and Mauritius – they enabled multiparty democracy to be built and maintained after independence. But in many ways these exceptions prove the rule. On the whole, colonialism reinforced the authoritarian elements within African societies while undermining the elements of inclusion and accountability that had previously balanced them out. The cumulative impact of these changes made it more difficult for African countries to forge democratic futures. When viewed in this light, it is clear that there is little reason for European nations to be proud of their empires.

#### The TRIPS agreement is *forged* in a biocolonial exclusion of indigenous communities through a false belief of indigenous peoples as merely holders. This is inextricably tied to global demand for medicine and MNCs surge in biopiracy.

**Breske 3** [Ashleigh, visiting assistant professor of international studies in the global politics and societies (GPS) department @ Hollins University. She earned her Ph.D. in planning, governance, and globalization at Virginia Tech, her M.A.L.S. in social sciences with a focus on Roman history from Hollins University, and her B.S. in biology with a concentration in classical studies and chemistry. Her current research explores how institutions and cultural values mediate changes in repatriation policy for indigenous cultural property, “Biocolonialism: Examining Biopiracy, Inequality, and Power”, Spectra, 6(2), pp.58–73. DOI: [http://doi.org/10.21061/spectra.v6i2.a.6]//pranav](http://doi.org/10.21061/spectra.v6i2.a.6%5d//pranav)

**The global demand for medicinal drugs has led to an increase in biopiracy in the Global South**. Once companies find something they believe will be profitable, they want to patent it straightaway so that no one else can capitalize off it. Patents are an easily accessible source of income for those able to apply for them. In fact, patents act as an exclusive control on a product, and, when corporations hold patents on biodiversity, they are creating a monopoly on food and health.xxviii In some ways **it is impossible for those in developing countries to compete with MNCs due to how patents and intellectual property rights are sustained**. Since patents are held nationally instead of internationally, most patent holders tend to be from more developed countries. Because of this divide, **it is possible to inflate the price of patented medicines so that corporations can make an even greater profit, which leads to more global inequalities.** **Rich states can also pay for access to technology for research and resources to control epidemics and infectious diseases more readily than poorer areas of the world.** **With the establishment of the World Trade Organization in 1994, international trade negotiations opened, and western notions of intellectual property rights took a firm hold in pharmaceutical research and development, increasing the strength of MNCs.** This was classified under TRIPS, the Agreement on Trade Related Intellectual Property Rights.xxix TRIPS was negotiated at the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and set the standard for member states to recognize the same intellectual property rights. This then meant that industries could bypass local patent law by registering their patents in the most favorable jurisdiction.”xxx Before TRIPS, which set consistent requirements, intellectual property was considered a domestic issue with protections set on the national level. However, with TRIPS, transnational corporations are now much more successful at acquiring patents. xxxi For example, looking at the number of patents held at the end of the twentieth century, most were filed by the United States (41.8%) and Europe (41.95%).xxxii **The TRIPS agreements and domestic patent laws, specifically US law, shapes international IPRs and show that the legal system is excluding indigenous or marginalized communities**. xxxiii **There has been a push for TRIPS, predominantly by the pharmaceutical industry, to restrict profit potential by indigenous communities.** Corporations make minor genetic or chemical formula changes for their intellectual property claims and patents and can then claim their product is no longer directly linked to the initial source. Debra Harry has claimed that **the main problem with biocolonialism is the “manipulation and ownership of life itself, and the ancient knowledge systems held by Indigenous peoples.”** xxxiv **The problem stems from the belief that indigenous peoples are merely the holders, not owners, of communal knowledge. What are not considered are their territorial rights to the resources on their lands**. Xxxv

#### Plan: The member nations of the World Trade Organization should eliminate patents on medicines based on Indigenous knowledge from patentability.

**IPW ‘06** [Intellectual Property Watch quoting Debra Harry -- executive director of the Indigenous Peoples’ Council on Biocolonialism, and a member of the Paiute tribe in the United States, “Inside Views: Indigenous Groups Tell WIPO, ‘Don’t Patent Our Traditional Knowledge’”, [https://www.ip-watch.org/2006/12/06/inside-views-indigenous-groups-tell-wipo-dont-patent-our-traditional-knowledge/]//pranav](https://www.ip-watch.org/2006/12/06/inside-views-indigenous-groups-tell-wipo-dont-patent-our-traditional-knowledge/%5d//pranav)

* Examples of medicines the plan would affect include reserpine, digitoxin, American ginseng medicines, Qualaquin, Neem, Turmeric, Aspirin, and many others.
* The ev cites an actual joint statement from a tribal group
* Ev also answers the “what if a company decides to j mass produce” question

The joint statement of tribal group says: “**Any attempt to develop IPR-based mechanisms to ‘protect’ IK [indigenous knowledge] actually poses much more threat to our knowledge, as a whole, than it can ever claim to prevent**. **Rather than protect, the imposition of IPRs over IK actually would serve to facilitate the alienation, misappropriation, and commercialization of IK.”** “We believe patent applications that include or are based on IK should be specifically excluded from patentability. **In IP terms, we’re sure you understand that these patent claims would fail to meet the test of innovation, novelty or inventiveness**. But more importantly for Indigenous peoples, **such patent claims should be denied because IK is in the Indigenous domain; that is, it is already under the jurisdiction of Indigenous legal systems, which protect the IK in perpetuity as the inherent and inalienable cultural property of Indigenous peoples.**

#### This invalidates the IPRs of western pharmaceutical companies and *terminates* their ‘*ethical right’* to Indigenous knowledge.

**Breske 4** [Ashleigh, visiting assistant professor of international studies in the global politics and societies (GPS) department @ Hollins University. She earned her Ph.D. in planning, governance, and globalization at Virginia Tech, her M.A.L.S. in social sciences with a focus on Roman history from Hollins University, and her B.S. in biology with a concentration in classical studies and chemistry. Her current research explores how institutions and cultural values mediate changes in repatriation policy for indigenous cultural property, “Biocolonialism: Examining Biopiracy, Inequality, and Power”, Spectra, 6(2), pp.58–73. DOI: http://doi.org/10.21061/spectra.v6i2.a.6]//pranav

Looking at the production of pharmaceuticals, **we can see the importance of Intellectual Property Rights (IPRs) in the debate over the accessibility of indigenous knowledge to outside corporations and investors**. IPRs impact many different fields: healthcare, biodiversity, technology, human and cultural rights, research and development, and agricultural innovations; but, the international system that established international intellectual property rights was hastily organized and linked to trade agreements. xli Shiva claims **IPR laws, under the development of TRIPS and the World Trade Organization (WTO), “have unleashed an epidemic of the piracy of nature’s creativity and millennia of indigenous innovation**.” xlii Transnational corporations are taking advantage of slight “innovations” on traditional knowledge to maintain many of their IPRs. xliii **Together, IPRs and TRIPS, work to suppress indigenous peoples’ ability to control their traditional way of life**. The regulatory system includes domestic laws of developed areas of the world, like the United States, Japan, and Europe, and broader international intellectual property rights agreements. **These agreements resemble doctrines promoting colonialism since they are legal documents fostering the idea of ownership by the dominant colonizers.** Xliv Attempts have been made to establish a declaration that would negate corporate intellectual property rights if public health issues were brought forward by struggling nations’ governments. xlv **But this does not address the issue of restoring indigenous intellectual property rights. Large pharmaceutical corporations in the United States and the European Union have used their vast corporate wealth to prevent the nullification of their IPRs. The inability to invalidate their IPRs means that pharmaceutical companies have ensured rigidity in the trade agreements and prevented generics from being manufactured. This has also ensured their continued legal right to Indigenous knowledge, if not an ethical right**. xlvi Patents are an apparatus of power with universal political and social consequences. Patent policies are developed in western countries but affect poorer, marginalized areas of the world. Unfortunately, there is no international governing body through which all patents are channeled, and they are granted according to individual national domestic laws. These patents are generally established in western countries like Canada, the European Union, and the United States. For all intents and purposes, pharmaceutical companies have more legal rights than people due to trade liberalization.

#### The role of the judge is to vote for the debater that endorses the best form of epistemic subsidiarity.

**McGonigle 3** [Ian Vincent, Assistant Professor of Global Science, Technology, & Society at Nanyang Technological University. Was previously a PhD Candidate in Anthropology and Middle East Studies at the Center for Middle Eastern Studies at Harvard University. He has published over a dozen original research articles in top academic journals, such as: Ethnos: Journal of Anthropology; the Journal of Law and the Biosciences (including the most-read article, with over 30,000 reads); Anthropology Today (cover feature); Journal of Neuroscience; Biophysical Journal; ACS Chemical Neuroscience; and Biochemistry., “Patenting nature or protecting culture? Ethnopharmacology and indigenous intellectual property rights”, Journal of Law and the Biosciences, Volume 3, Issue 1, April 2016, Pages 217–226, DOI: [https://doi.org/10.1093/jlb/lsw003]//pranav](https://doi.org/10.1093/jlb/lsw003%5d//pranav)

* TEK = Traditional Ecological Knowledge
* Sui generis j means like specific to them/ is latin for “their own”
* Epistemic subsidiarity is a legal framework for resolving ontological disputes in relation to varying definitions of nature this is a formalized legal strategy that can take place in multiple ways, but has the end goal of protecting spaces for the expression of local autonomy and legitimizing Indigenous processes – this does not entail leaving traditional policy spaces, but rather explains how to improve them and include Indigenous POVs into future action
* The framework is consequentialist (obviously limited as to what consequences matter), but is focused on producing the best legal strategy – if you prove that the squo/cp/alt or whatever is a better legal strategy for establishing protections for Indigenous populations or sui generis than the 1ac, you’d win – basic competition stuff lol
* To clarify, the 1AC does operate under a comparative worlds paradigm.

In response to these shortcomings, emerging insights from social studies of science may also help in thinking about the ethical problems, legal structures, and cultural clashes that anthropologists engaging in ethnopharmacology research may face. **Such scholarship may also offer insight for informing policy solutions and establishing better exchange agreements**. Jasanoff,61 for example, **has theorized a legal framework for resolving ontological disputes in relation to varying definitions of nature**. In a discussion of transnational risk governance, **she develops the idiom of ‘epistemic subsidiarity’ to describe a formalized legal strategy that could pave the way to ‘to protect spaces for the expression of local values and local autonomy’, and therefore also protect the legitimacy of local modes of reasoning, within the same judicial system.** ‘Epistemic subsidiarity’ is particularly salient to cross-border disputes where cosmopolitan exchanges require a formal system of reciprocity, compromise, and mutual respect of each party’s respective regimes of knowledge and value. For ethnopharmacology, implementing ‘epistemic subsidiarity’ might mean the establishment of special courts that would consider indigenous claims on their own terms. With the expert mediation by anthropologists, cultural diplomats, or leaders from different parties who can mediate between secular technoscience and indigenous culture, such courts could be a space where indigenous definitions of nature and property are heard in parallel to the interests of other parties, be they states, companies, or researchers. Further, **special laws could be written that would extend the protection of indigenous intellectual property to include non-modern understandings, including ambiguous spirit entities, or acquired TEK.** A system of epistemic subsidiarity also requires political decisions be made at the ‘lowest feasible level of governance’ so that local values and concerns are first taken into account.62 **With epistemic subsidiarity, different knowledge regimes can exist side by side (such as, for example, biology, international law, state law, and local indigenous law and healing practices), without one necessarily subordinating to another**. **Epistemic subsidiarity could also facilitate the writing of trade agreements on local indigenous terms, while also recognizing international law and other parties’ interests. Combining epistemic subsidiarity with the emerging anthropological perspectives that regard indigenous visions of their world with parallel ontological status to Western science could deliver ‘symmetry’ in the negotiation of trade agreements, and consequently, could help resolve the ethical dilemmas of ethnopharmacologists and indigenous peoples.** Stories like that of the Mexican peasants and their redundancy from the industry due to shortcuts made by chemistry in conjunction with IPR, or indeed the recent case of the Peruvian people who helped Napo develop ‘Dragon’s blood,’ show that IPR are not adequate instruments for representing or protecting indigenous TEK and their embodied know-how. Moreover, **current laws do not afford equal status to, or demand a symmetrical engagement with, non-modern cultural values and ambiguous local entities**. Further, **most discourse within the ethnopharmacology community is oriented to the biological and pharmacological sciences, with much less attention paid to the broader social, political, and anthropological dimensions of the research**.63 Consequently, the ethnopharmacology community has not yet addressed these questions with sustained debate, nor has there been much done to envision an ethical platform upon which to establish exchange agreements that incorporate ‘non-modern’ visions of the world. **Indigenous communities therefore need sui generis laws to protect their shared cultural heritage and shared natural resources**. So far, ‘Brazil, Costa Rica, India, Peru, Panama, the Philippines, Portugal, Thailand and the USA have all adopted sui generis laws that protect at least some aspects of traditional knowledge’.64 But **extending the concepts of ontological pluralism and epistemic subsidiarity into indigenous IPR laws could help lawmakers resolve the ethical and legal dilemmas over whose knowledge, and definitions of property, should prevail in exchange agreements and legal disputes.**

#### The logics of settler colonialism *have not* disappeared, but merely *reformulated* extinction discourse to justify the *biocolonial exploitation* of natural resources and Indigenous knowledge in the west’s “global resource frontier” through narratives of inevitable Indigenous extinction.

**Barker ’19** [Clare, Associate Professor in English Literature at the University of Leeds and their research focuses on postcolonial literatures and cultures, and it engages centrally with disability studies and medical humanities, “Biocolonial Fictions: Medical Ethics and New Extinction Discourse in Contemporary Biopiracy Narratives”, 2019, 19(2): 94–109, [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7116577/]//pranav](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7116577/%5d//pranav)

**The logic of biocolonial extractivism operates through a reorientation of the temporal formations of settler colonialism, which equate settler practices with development and consign Indigenous peoples to the past.** **The land dispossessions of the colonial era were facilitated by powerful narratives of inevitable Indigenous extinction:** ‘vanishing Indians’, Maori and Aboriginal ‘dying races’. As critics have shown, **contemporary biocolonialist initiatives operate on similar assumptions, under which indigenous biospecimens must be preserved and biological data acquired before they vanish forever**. Joanna Radin demonstrates that, since the mid-twentieth century, the ability to freeze and store blood and other organic samples has ‘emerged as a potentially powerful strategy for preserving fragments of a world that appeared to be increasingly in flux’. It enables ‘biological material to be studied in the present and especially in the future’, when (whether due to genetic admixture, European diseases, or environmental damage produced by the industrialized global North) ‘the individuals from whom it had been extracted were expected to have disappeared or changed beyond recognition’.3 In this article, I **explore the intertwined relationship between medical research ethics and the logic and ideology of biocolonialism** as it is represented in two contemporary American novels, Ann Patchett’s State of Wonder (2011) and Hanya Yanagihara’s The People in the Trees (2013). These novels depict ‘medical adventurer[s]’4 undertaking biocolonialist excursions into the remote jungles of, respectively, the Amazon and the Pacific, and are centrally concerned with the methods and infrastructure of biomedical and pharmaceutical research. In both cases, the fictional **scientists’ ethically problematic research practices implicate** **them in** what Pauline Wakeford calls ‘**two entangled narratives of death and disappearance: the grand récits of wildlife extinction and the vanishing Indian’.**5 **I focus in particular on how these texts, by presenting us with fictional bioethical quandaries related to human longevity and reproduction, engage with the new formulations of extinction discourse produced by the life sciences**. Patrick Brantlinger asserts that **colonial ‘extinction discourse was performative in the sense that it acted on the world as well as described it’**.6 State of Wonder and The People in the Trees **both imagine biological discoveries with the potential to extend human lifecycles, but these research endeavours are steeped in extinctionist ideology and themselves set in motion the decimation of previously thriving Indigenous communities**. **Aspirational narratives of ‘eternal life’ (in Yanagihara) and ‘world health’ (in Patchett) are underpinned by the knowledge that these communities, reframed as research subjects, are likely to vanish in the wake of what Warwick Anderson calls ‘scientific colonialism’, along with their unique ecosystems.**7 The different narrative temporalities of these texts – Patchett’s anticipating a significant breakthrough in global health, Yanagihara’s narrated retrospectively from a position of irreversible loss – produce divergent valuations of human and nonhuman lives and different perspectives on the ethics of biopiracy, as I shall discuss. But in reading them together, I demonstrate how fictional engagements with biocolonial science illuminate the continuities between colonial-era extractivism and contemporary research practices. **In their temporal reorientations and their ability to imagine actual and potential acts of extinction, these texts resituate extinction discourse squarely within the context of twentieth- and twenty-first-century bioscientific experimentation**. State of Wonder follows Marina Singh, a pharmacologist for a multinational pharmaceutical corporation, Vogel, on her expedition into the Amazon to investigate the death in the field of her colleague, Anders Eckman, and to assess the progress of a senior scientist, Annick Swenson, who is developing a fertility drug for Vogel while living with a remote tribe, the Lakashi. Swenson has discovered that the Lakashi women’s practice of chewing bark from a particular local tree (the Martin tree) not only alters their reproductive chemistry, allowing them to conceive and give birth into their seventies and eighties, but also inoculates them against malaria. Alongside their work on the fertility drug, Swenson and her team are surreptitiously developing a malaria vaccine at Vogel’s expense, which will have little appeal to company shareholders even though it ‘will have enormous benefits to world health’, since ‘[t]he people who need a malarial vaccine will never have the means to pay for it’.8 **As the narrative unfolds, the protection of the Lakashi, their lifeways, and their environment is pitted against this urgent global health imperative to save the lives of the ‘[e]ight hundred thousand children’ who, as Swenson tells Marina, ‘die every year of malaria’ in the so-called ‘Third World’.9** The People in the Trees is framed as the memoirs of Norton Perina, a ‘renowned immunologist’ who, as a young doctor in 1950, joins an anthropological expedition to U’ivu, a fictional Micronesian state.10 Along with his anthropologist colleagues, he ‘discovers’ a ‘lost tribe’ living on the island of Ivu’ivu whose ritual ingestion of a sacred turtle endemic to the island, the opa’ivu’eke, causes extended longevity, with some tribe members apparently living for several hundred years. Perina’s research on this phenomenon earns him a Nobel Prize for Medicine, but also kickstarts a rapid process of biocolonial incursion on this island that has ‘never [before] been colonized’, beginning with pharmaceutical companies, seeking to develop ‘age-retarding drugs, … anti-aging skin creams, [and] elixirs to restore male potency’, ‘swarming throughout Ivu’ivu on the hunt for the opa’ivu’eke’.11 It results in the extinction of the turtle, the razing of the island, and the decimation of the Ivu’ivuan community through an accelerated experience of the impacts of colonization, including forced displacement, alcoholism, and disease. Both texts emphasize the overdetermination of their respective jungle environments by longstanding colonialist tropes of exotic difference that are inflected by bioscientific discourse. **The Pacific island, as Elizabeth DeLoughrey has demonstrated, has long been figured as a remote, ‘hermetically sealed laboratory’, ‘deemed ahistorical and isolated’ from modernity and therefore ideal for experimentation in anthropology, ecology, and nuclear science**.12 The Amazon, meanwhile, is imagined as what Veronica Davidov terms a ‘pharmacopia’ that holds within its rich ecosystems ‘fantastic cures for illnesses that defy the capacities of the Western pharmaceutical industry’, or, as Dr Swenson puts it in State of Wonder, ‘some sort of magical medicine chest’.13 **Under the globalized conditions of the biomedical and pharmaceutical industries, the jungle spaces outside the West are vulnerable to exploitation due to their construction as ‘global commons’ or ‘global resource frontier[s]’ available to be harvested for their medical riches**.14 As Swenson asserts in an unapologetic utilization of extractivist rhetoric: ‘there is much to be taken from the jungle’.15 Through their focus on the activities of life scientists in the interconnected fields of big pharma and global health, both novels appear to offer a critique of the impacts of biocolonialism on Indigenous people and the ecosystems in which they exist. But, as I will show, Perina’s retrospective narration in The People in the Trees brings into critical focus the extinctionist logic of biocolonial science, while State of Wonder’s anticipatory positioning is ultimately bound up with the future-oriented rhetoric used to justify much exploitative and damaging scientific research. The People in the Trees introduces its Ivu’ivuan ‘lost tribe’ through the lens of 1950s anthropology. As an ambitious junior doctor on an anthropological expedition, Perina observes his anthropologist colleagues with a degree of scorn regarding their research activities, which seem to consist of conducting ‘fruitless interviews with the dreamers’ – the elderly Ivu’ivuans who have ingested opa’ivu’eke flesh and who are consequently aged between one and three hundred years old – and ‘filling entire notebooks with minute descriptions of the most mundane of activities’.16 The text enacts a forensic examination of anthropological method and ideology, presenting us with anthropologists who are, in line with recent critiques of the discipline, ‘entrenched in island boundedness, isolation, and atemporality’ in this period before the field’s critical turn.17 In thematizing this mid-twentieth-century anthropological perspective on the Indigenous tribe, Yanagihara draws attention to anthropology’s foundational role in establishing problematic research engagements with Indigenous people. **The ‘funereal but very modern science of anthropology’, as Brantlinger terms it, was heavily implicated in, and dependent upon, extinction discourse ‘in its attempt to learn as much as possible about primitive societies and cultures before they vanish forever’**.18 The People in the Trees dramatizes what Johannes Fabian famously termed ‘**the denial of coevalness’ – the assumption that supposedly ‘primitive’ Indigenous subjects of anthropological study exist on a different temporal plane from the ‘modern’ scientists studying them**.19 Yanagihara employs contrasting notions of time in Perina’s account of the villagers and the scientists. The researchers obey a ‘definition of time … determined in the part of the world where people consulted clocks and made and kept appointments’ (consonant with Mark Rifkin’s notion of ‘settler time’), while in the Ivu’ivuan jungle, Perina recounts, ‘time twirled itself into long, spiraling whorls, defying biology and evolution; not even the human body respected it’.20 He understands the villagers to possess ‘no notion of time, no notion of history’, despite being aware of their 400-day year and system for measuring birthdays.21 **While extinction discourse in the colonial era was mobilized to make way for the settler, conveniently bypassing Indigenous sovereignty on the land with the assumption of their inevitable elimination, in this context of 1950s Pacific anthropology, the denial of coevalness makes way for biocolonial exploitation of natural resources and Indigenous knowledge.** The research of the lead anthropologist, Paul Tallent, on a U’ivuan origin story linking the opa’ivu’eke to immortality, as well as on recent island histories rich in ecological and climatic knowledge, forms the basis for Perina’s biomedical experimentation on the dreamers and turtles.

#### Research paradigms are not static, but rather in a *constant fluidity* that mandates the deployment of mixed methods to create effective change. The 1AC is NOT western pragmatism, but a *radical and unsettling form* of decolonizing research practices as the starting point for the broader project of decolonization.

**Held ’19** [Mirjam, PhD student @ Dalhousie University, “Decolonizing Research Paradigms in the Context of Settler Colonialism: An Unsettling, Mutual, and Collaborative Effort”, 01-23-2019, International Journal of Qualitative Methods, DOI:10.1177/1609406918821574]//pranav

**Because paradigms are fluid scholarly constructs that are not homogenously applicable to the entire research community**. In his seminal work, The Structure of Scientific Revolutions, Kuhn (1962) defined paradigms “to be universally recognized scientific achievements that for a time provide model problems and solutions to a community of practitioners” (p. x). Thus, **a paradigm is nothing static** nor is it applicable to any and all researchers. According to Kuhn’s original definition, **a paradigm can either change over time or fall out of fashion**. Further, it provides guidance about which questions to ask and how to answer them only to a smaller subset of researchers, namely a scholarly community that works from the same theoretical and empirical background (Kuhn, 1996, as cited in Morgan, 2007). Or as Morgan (2007) put it, paradigms can be seen “as shared beliefs among members of a specialty area” (p. 53). While this view was first put forward for Kuhn’s linear paradigm shift model in which a new paradigm replaces and older one, it is equally applicable to the proliferation perspective. Thought and theories that were to be developed into nonpositivist research paradigms for qualitative social inquiry emerged in the 1960s and 1970s (Denzin & Lincoln, 1994, 2000, 2005). While the development of the postpositivist, constructivist and what is now often called the transformative paradigm was characterized by a number of defining crises (Denzin & Lincoln, 1994, 2000, 2005), the emergence of mixed methods, specifically the combining of quantitative and qualitative methods, led to confrontations that are now known as “paradigm wars” (Denzin, 2010; Teddlie & Tashakkori, 2003). Researchers have employed mixed methods since the early days of qualitative inquiry in the 1900s, but explicit multimethod research designs did not emerge until the 1960s (Teddlie & Tashakkori, 2003). In the 1980s, mixed methods that combined quantitative and qualitative methods seemingly had no place in methodological scholarship as their respective paradigms, that is, postpositivism and constructivism, were deemed incompatible (Denzin, 2010). **Then, some scholars of this specialty area took their shared conviction, namely that they should have the freedom to choose whatever method or combination of methods is most appropriate for answering the research question, and created the pragmatic paradigm** (for a more detailed account of the history of mixed methods, see Denzin, 2010; Teddlie & Tashakkori, 2003). **This pragmatic move allowed them to combine methods and thus methodologies that were previously (and still, by some scholars) believed to be irreconcilable**. From a paradigm incompatibility perspective, merging Western and Indigenous methodologies is equally impossible. Can the pragmatic paradigm thus provide a framework under which transformative and Indigenous methodologies can be used in combination? Not directly. The pragmatic paradigm was constructed to provide the flexibility to make quantitative/qualitative mixed-methods research legitimate from a philosophical/theoretical point of view. Early pragmatism (in the late 19th and early 20th centuries) was a philosophical movement that emphasized research as a social endeavor (Maxcy, 2003). Today, issues of power are still important to researchers who practice mixed-methods research in the context of feminist approaches (e.g., Hesse-Biber, 2010; Hesse-Biber & Griffin, 2015) or to generally challenge dominant views of reality (e.g., Hesse-Biber, 2010; Mertens, Bledsoe, Sullivan, & Wilson, 2010). Yet often, current practices of mixed-methods research under the pragmatic paradigm lack a true axiological stance, either overlooking or ignoring questions of ethics or value (Biddle & Schafft, 2015, p. 323; Teddlie & Tashakkori, 2009; p. 90). Research, however, is always already political (Denzin & Lincoln, 2008b, p. xi) and thus any paradigm that guides transformative/Indigenous research—which is inherently emancipatory/liberatory—needs to include values and let them play a formative role. Still, **the creation of the pragmatic paradigm can provide a model for rejecting the “either-or” of two seemingly incommensurable paradigms.** The transformative paradigm is based on a Western worldview, while Indigenous paradigms are rooted in a holistic, localized worldview. Nevertheless, they share many of their philosophical underpinnings. Another common tenet are decolonizing aspirations. These, however, are more than just another social justice issue. Decolonization is, by default, an unsettling enterprise and therefore “cannot easily be grafted onto pre-existing discourses/frameworks” as stated by Tuck and Yang (2012, p. 3). In the Canadian context of settler colonialism, decolonization is about land, resources, sovereignty, and self-determination (Tuck & Yang, 2012); as such, it involves the creation of a new social order. Thus, it is a mutual undertaking involving the colonizer and the colonized (Beeman-Cadwallader, Quigley, & Yazzie-Mintz, 2011). **I suggest applying this radical interpretation of decolonization to the decolonization of research in order to advance the discussion on multiparadigmatic research spaces.** **Radically decolonizing research means that any decolonizing research paradigm must be developed conjointly between Western and Indigenous researchers, creating a new research framework altogether**. It also means that decolonizing paradigms is not a means to an end (e.g., to provide alternative pathways to research or to make the research endeavor more inclusive and diverse), but just a small piece in the puzzle that is the decolonization project, which is ultimately a radical social reform. Decolonizing research under these premises will be an unsettling collaboration with fraught solidarity (Tuck & Yang, 2012) and an unknown outcome. **Decolonization is a long-term process involving the bureaucratic, cultural, linguistic, and psychological divesting of colonial power** (Smith, 2012) **by undoing “the privileging of dominant Euro-centred cultural values and beliefs in education, scholarship, knowledge production, the legitimization of intellectual capital, and the networks and systems of power”** (Styres, 2017, p. 19). **It is about reinventing the coexistence of the currently dominant society, more recent settlers and the Indigenous peoples by redefining where power is located.** This shift will include allowing the colonized to view and understand themselves through their own worldviews (Chilisa, 2012, p. 13). There is a progression to this process. Based on the experiences in his native Hawaii, Laenui (2000) identified five stages of the decolonization process: rediscovery and recovery, mourning, dreaming, commitment, and action. These phases share overlaps, and can happen at the same time and in various combinations (Laenui, 2000). Laenui’s phases were formulated for Indigenous or other colonized peoples; however, the decolonization of the dominant society will similarly proceed in stages. With dominance comes privilege; in order to undo white privilege, we need to thoroughly understand it (Land, 2015, p. 31). Thus, for the colonizer, too, the action phase will have to be preceded by a clear comprehension of the past and the status quo, before the hegemonic concept of European/Western thought can be challenged and a more equitable and collaborative future envisioned and attempted. The notion that “there are no spaces that are not colonized” (Anderson, 2004, p. 239) reinforces the need for decolonization to be an all-encompassing and collaborative effort. **It does not mean, however, that the perpetrators and the victims play the same role;** the burden is with the dominant society who has to take responsibility for its actions (see Getty, 2010, p. 7; Tuck & Yang, 2012, p. 35). Societal structures are either colonizing or liberatory. The shift from the former to the latter will be an unsettling and challenging process that, at best, will lead to mutual understanding, healing, and, ultimately, a postcolonial coexistence and collaboration. I interpret this postcolonial future as an era when the current ongoing oppression and marginalization of Indigenous peoples (collectively and individually) as a result of colonialism has been redressed and the former colonizer and the formerly colonized have found a balance that honors the Treaty rights, Aboriginal rights, and the individual and collective rights of Indigenous peoples as enshrined in the UNDRIP. The Canadian government is committed to acting upon the calls to action put forward by the TRC (Trudeau, 2015) and has indeed recently become a full signatory of the UNDRIP (Government of Canada, 2016). But when it comes to implementing deeds that advance reconciliation and decolonization on the ground, there has so far been much more talk than walk. While a change in rhetoric around Canada’s colonial past and neocolonial present is a start, only the implementation of the demands for—and rights to—indigenization, self-determination, and equality will lead to real change. This postcolonial prospect as envisioned by decolonization is not to be confused with the term postcolonialism that is currently in use in academia. Influenced by postmodernism and poststructuralism (Anderson, 2004), postcolonialism or postcolonial theory is “a critical theory that provides a way of deconstructing colonialism and its historical effects on the colonized,” as summarized by Getty (2010, p. 7). Helping to reveal the unequal power relations of past and present colonialism, postcolonial theory has been used by non-Indigenous scholars to analyze and critique the impacts of colonialism (Browne, Smye, & Varcoe, 2005). However, the approach is rather descriptive and does not reflect Indigenous ways of knowing (Getty, 2010); thus, Indigenous scholars have criticized its failure to support decolonization and Indigenous self-determination (e.g., Grande, 2000; Kovach, 2010; Smith, 2012). Decolonizing approaches, on the other hand, are not satisfied with describing and critiquing unequal power relations stemming from colonialism, they strive to undo them. In terms of decolonizing methodologies, Indigenous scholars made the first step by reviving, articulating, and using Indigenous methodologies and research paradigms for their research (e.g., Bishop, 2005; Graveline, 2000; Hart, 2010; Kovach, 2009; Rigney, 1999; Wilson, 2008). Based on local and relational worldviews, these paradigms, however, are only accessible to the respective Indigenous communities. Non-Indigenous scholars who support the self-determination of Indigenous peoples—also referred to as allied others—then tried to incorporate Indigenous ways of knowing and knowledge production into their research but still worked from a Western paradigm (e.g., Jackson-Barrett et al., 2015; Mertens, 2012). Many scholars engaged in research that tries to bridge Western and Indigenous approaches have expressed frustration over the fact that the ethical space of such research is ill-defined. Particularly, graduate student researchers (both Indigenous students and allies) who wish to embark on decolonizing research have to stem a lack of guidance and understanding, be it from advisory committees, ethics boards, university legal services, or granting agencies which are still often biased toward Western research approaches (cf. Kovach, 2009; Kuokkanen, 2007; Simonds & Christopher, 2013; Snow, 2018; Styres, Zinga, Bennett, & Bomberry, 2010). Both allies and Indigenous scholars are in search of a research ethics that is feminist, caring, communitarian, holistic, respectful, mutual (i.e., power balanced), sacred, and ecologically sound (Lincoln & Denzin, 2008, p. 569). In this quest, **an increasing number of authors has developed thought around a new multiparadigmatic space that combines elements of the transformative and of an Indigenous paradigm.** Indigenous scholars from around the world have put forward indigenized paradigms that are based on Indigenous perspectives and philosophical assumptions: examples are the Kaupapa Māori research approach (e.g., Bishop, 2005; Mane, 2009; Smith, 2000), Rigney’s (1999) Indigenist research paradigm for Australian Indigenous peoples, research frameworks developed by North American Indigenous peoples (e.g., Graveline, 2000; Hart, 2010; Kovach, 2009; Wilson, 2008) and by African scholars such as Chilisa’s (2012; Chilisa et al., 2017) postcolonial Indigenous research paradigm and Afrikology as a transdisciplinary approach (Buntu, 2013; Nabudere, 2011, 2012). Another transdisciplinary pathway is two-eyed seeing, coined by Mi’kmaq Elder Albert Marshall and first developed as a colearning journey that weaves together Indigenous and Western knowledges in science education (Bartlett, Marshall, & Marshall, 2012).2 These Indigenous paradigms can be used by Indigenous and non-Indigenous researchers alike, for, as Chilisa et al. (2017) posit, **paradigmatic positions need not be treated in exclusivist terms, that is, that the use of one precludes thinking in terms of the other.** Recognizing the need for diversity among the current “big four” (Dillard, 2006) Western research paradigms (postpositivist, constructivist, transformative, and pragmatic), Indigenous and Western scholars have called for the inclusion of a fifth paradigm, one based on non-Western perspectives, be they African, Eastern, African American, or Cree (e.g., Buntu, 2013; Chilisa, 2012; Chilisa et al., 2017; Dillard, 2006; Romm, 2015; Russon, 2008; Wilson, 2008).

#### *Progress* for Indigenous peoples is slow, but history proves it *is* *possible* – every small change matters.

Ecohawk & Drew ’20 [John Ecohawk is executive director of the Boulder, Colorado-based Native American Rights Fund and is a member of the Pawnee people, Kevin Drew is the assistant managing editor for international news, “Native Americans' Slow Path to Progress”, 07-15-2020, https://www.usnews.com/news/best-countries/articles/2020-07-15/supreme-court-ruling-puts-focus-on-slow-path-to-progress-for-native-americans]//pranav

In an age of growing global protests against racial inequalities, last week's U.S. Supreme Court decision to classify about half of Oklahoma as a Native American reservation put a spotlight on the economic, health and educational disparities that countries' indigenous peoples still face around the world. A 2009 U.N. report, for example, chronicled the widespread poverty, unhealthy living conditions and food insecurity that indigenous peoples face in the United States, Canada, Latin America, Australia, New Zealand and throughout Asia. A decade later, however, little progress has been made. A World Bank report published at the end of 2019 notes that the 476 million indigenous peoples in 90 countries make up about 6% of the global population, but account for 15% of the world's extreme poor. In Canada, a June 2019 government report stated that the deaths of thousands of indigenous women in recent decades constituted genocide and was the result of discrimination and the government's failure to protect First Nations people. And last February, Australian Prime Minister Scott Morrison conceded that his country's national policies to improve indigenous inequalities had failed and needed to be replaced. Those inequalities, including restricted access to national health care systems, make indigenous communities around the world especially vulnerable to the impacts of natural disasters and disease outbreaks such as the current COVID-19 pandemic, the World Bank report said. Still, this may be a pivotal time for activists pushing back against systemic racism against Native Americans. The Supreme Court's 5-4 ruling on July 9 decided whether lands of the Muscogee (Creek) Nation remained a reservation after Oklahoma became a state. The decision came days after a federal judge ordered the Dakota Access pipeline to be shut down, a major victory for Native American communities that raised environmental concerns the pipeline posed to tribal lands. And on Monday, Washington, D.C.'s NFL team announced it would change its nickname, a move activists have sought for decades to eliminate the team's use of the racial slur. U.S. News & World Report spoke with John Echohawk, executive director of the Boulder, Colorado-based Native American Rights Fund. The 74-year-old Echohawk, a Pawnee, co-founded the NARF in 1970 after becoming one of the first U.S. citizens to graduate with a law degree focused on Native American law. Today, NARF also has offices in Washington, D.C., and Anchorage, Alaska, has a staff of 35 employees, including 18 ½ full-time attorneys operating on a $12 million annual budget. Echohawk discussed the significance of the Supreme Court's Oklahoma ruling, and the slow, sometimes tortured path to progress for Native Americans. Can you put into historical context how significant the July 9 Supreme Court ruling concerning Oklahoma is for Native American rights? The Creek Nation treaty was the first one (signed with the U.S. government) so this has been an issue going on and on for all these years. The question is, what's the reservation's boundaries? Is it still intact? Has it been set in treaties or has it been changed by Congress? The Supreme Court answered that – a treaty is a treaty. It stays in effect until Congress changes it with explicit language. That never happened, so the boundaries are still intact. Do you anticipate the ruling having a spillover effect across the country? With 564 tribes across the country, there are plenty of disputes about boundaries and jurisdictions. So this (the Supreme Court ruling) is another legal precedent that talks about the clear rules you would use to analyze whether a boundary has been diminished or not. There are probably some cases out there that benefit from this clarification. What type of cases does your organization typically focus on? We have an all-native board of directors and there's no way we can undertake to represent all of the tribes, organizations and individuals that call us needing representation, so we have to be very selective and strategic. Our board has set up some priorities for us to follow. There are five and they're on our website: protection of tribal existence; protection of our tribal natural resources; protection of our human rights; holding the government accountable to the treaties and laws they passed to benefit us; and fifth, develop Indian law and educate the public about Native American law and policy. Can you discuss the development of the federal government's Native American policies? That basically requires a history lesson and it starts with 1492 and the first contact (between Europeans and native tribes). The European nations eventually came to realize tribes are nations, so they started resolving these issues through treaties. This practice found its way into the U.S. Constitution in 1787, and Congress was given the authority in Article I to deal with various sovereigns, foreign nations, the states and the tribal nations. And so we started entering into treaties … hundreds of treaties. Those treaties had resolved plenty of conflicts and land issues. But in 1871 the U.S. House of Representatives became jealous of the U.S. Senate because they were the ones conducting Indian affairs – the treaties could only be changed by the Senate. So Congress passed a law saying from now on we're going to deal with tribes through federal law. Federal Indian law and policy began developing in the 1880s and Congress thought it was wise to start assimilating and breaking up tribes and making them live like white people. One of the main ways they did that was to do what they call "allotment" … to take the tribal nations and reservations and take that land and divide it up and give individual tribal members the parcels of lands – allotments. What they didn't give to individual tribal members they would open up for settlement by non-Indians to come onto those reservations and buy that land and live among the Indians. Over the years this patchwork land ownership pattern was called checkerboard reservations. This didn't happen to all of the tribes, it happened to some of the tribes and one of them was the Creek Nation. The tribes lost about two-thirds of their lands through that process, and basically the tribes became destitute. That takes us into the 20th century. How did U.S. federal policy for Native Americans change? After the Great Depression the U.S. (government) realized that allotment policy was a mistake and so they stopped it and passed the Indian Reorganization Act, which started recognizing tribal governments and the right of tribal governments to run tribal affairs. That went on for about 20 years and then the politics of the 1950s came along and some people thought Indians living in their communal societies were too much like communists and they needed to be done away with, so they started terminating tribes – taking their land, selling it, moving Indians to the cities to be assimilated. This happened to about 100 tribes beginning in the '50s. And of course they didn't ask the tribes about that, they just did it. So in the 1960s and during the civil rights movement, our people started fighting back, complaining about this practice. In 1970 under President Nixon, he announced a national Native American policy that stopped termination and started recognizing tribal self-determination – the right of tribal nations to exist and manage their own affairs. So for the last 50 years that policy has stayed in effect and we have basically changed things. Our socioeconomic conditions are much better but still not as good as most people and we're still among the poorest of the poor. It's kind of a patchwork situation where some tribes do better than others. Has there been any lingering effect of trying to separate nations? Along the way, as you might guess, this was one of the first issues our board of directors had us address. One tribe, the Menominee Nation in Wisconsin, took their situation back to Congress and explained how that decimated their tribe, and asked Congress to admit they were wrong and to restore the Menominee Nation and their lands, and they did. And other tribes followed in their footsteps – those terminated tribes all went back (to their lands), one after another and all got restored. So Congress corrected its mistake. What are the greatest challenges facing Native Americans today, or is it even fair to try to lump all tribes as suffering the same issues? Different tribes have different issues. A lot of the challenges are lumped into those five priority issues that I mentioned. Overall, things are getting better. A lot of the reason for that is people understand we're still here. They just don't know about us but they're learning about us. They're learning that the United States is made up of federal government, state government and tribal government.

**You should not view the 1AC as a policy action as separate from the 1AC as a resistance project – only through embracing counter-hegemonic legal projects can we create new discourse and social meaning.**

**Mukuka 10** [George Sombe Mukuka holds two PhD degrees: in History from the University of KwaZulu-Natal and in Archaeology from the University of Witwatersrand. “Indigenous Knowledge Systems and Intellectual Property Laws in South Africa” Feb 20,2010 https://core.ac.uk/download/pdf/39667211.pdf] //aaditg

The core of orientalism is the capacity of the occident to claim to possess knowledge through which the orient is represented. In other words, since the nexus of knowledge is power, orientalism is about management and control of the orient by means of power (2003: 39). ***The creation of the current legal framework has created a fissure between the West and indigenous communities and can thus be interpreted as a conscious plan to deny power to indigenous communities through colonialism and apartheid.*** Said further contends that the orient and his world were seen as not existing in their own right, having life of their own, but rather as the extension of the European. It therefore would seem that orientalism was about diffusion of power from the centre, the West, towards the margins, the East, or in this case, Africa. Critical in this transaction were the West’s presumptions to claim knowledge of the orient by which they represented the orient. The ***orient is portrayed a ‘thing’, an ‘object’, and a ‘specimen’. Accordingly, he is someone who can be judged (as in a court of law), a subject matter to be studied (as in a curriculum) or examined, something to be disciplined (as in a school or prison), something one illustrates (as in a zoological manual).*** Furthermore, orientalism was strengthened by the knowledge that Europe or the West controlled the immense part of the earth surface (Said 2003). Subjugation of the orient did not merely entail land. It was intellectual and embraced within various discourses: Christian religion, sociology, ethnology, anthropology, politics and law. These explained the behaviour of orientals; they attributed to orientals a mentality, a genealogy, and an atmosphere; most importantly, they allowed Europeans to deal with and even see orientals as a phenomenon possessing regular characteristics. Nonetheless, the durability of orientalist notions was such that it influenced both the orientals as well as the European occident. This is the character of orientalism (2003: 2). 29 Rather than simply being a positive doctrine, at best it is understood as a set of constraints upon, and limitations to, not of thought. ***Orientalism presupposes and maintains that non-Europeans are irrevocably different from Europeans.*** More particularly the supposed inferior intellectual and physical abilities attributed to non-Europeans, so it was maintained, would make it impossible for them to attain cultural achievements similar to those achieved by their European counterparts. This notion was elaborated in various ways: for instance, technologically, it was assumed that it manifested in their inability to control nature; environmentally, it was held that their bodily constitution was compromised by the tropical climate. Postcolonial theory assists in trying to negotiate a new meaning of indigenous intellectual property ownership and current South African intellectual property laws by looking at how the subaltern or the indigenous communities consent to the domain of civil society through such channels as education, cultural practices and even intellectual property laws. This is non-liberative as the subaltern forgo their right to indigenous and communal ownership, as seen in the way the West has continuously plundered non-western materials and continued its political subjugation. The indigenous communities, according to orientalism, are consistently put at the service of colonial administration. In our case, indigenous knowledge is persistently put at the service of western knowledge systems and down played by western legal systems. The core of orientalism is the capacity by the West to claim possession of knowledge possessed by the orient. Therefore, orientalism will help us deconstruct and explain the transaction between indigenous knowledge systems and intellectual property laws as orientalism deals with how Europeans had power to manage and the orient or the indigenous communities over a significant period. Power to control did not only entail land. As stated earlier it was intellectual and it encompassed all aspects of life including law. ***The control by the West of intellectual property rights still exists since very little input from the indigenous communities has been solicited in the present intellectual property laws***. If they have been solicited the over riding paradigm is still Western and basically foreign in its approach. But even though the postcolonial theory helps us to look at the complex colonisation process, embedded in the postcolonial theory are cultural underpinnings which I shall look at in the next section. 30 2.3 Contested Cultures ***There is a critical need to assert how law and culture interact in our societies today. They are not independent of each other – they reinforce the hegemonic processes within communities. This investigation takes cognisance of a direct link between the law and indigenous cultural communities in the sense that even though cultural values might have not been factored into the current South African legal systems, the intellectual property law is alien in trying to address the needs of indigenous communities.*** Coombe (1998) notes legal forums are perceptibly significant locations for practices in which hegemony is constructed and then contested, providing institutional venues for struggles to establish and legitimate authoritative meanings. Law generates, then promotes, aspects of positivities, and at the same time it promotes prohibitions, legitimations, and oppositions to the subjects and objects, which it recognises. The resurgence of legal anthropology has contributed to the theoretical understandings of power, hegemony, and resistance (Comaroff 1995). With the rise of legal anthropology, prominence is then accorded to cultural milieu and: “Legal discourses are spaces of resistance as well as regulation, possibility as well as prohibition, subversion as well as sanction” (Coombe 1998: 25). There has been a rise of legal anthropology, which uplifts cultural aspects of communities; with rise in importance, the legal discourses become arenas on which new forms of legal systems may emerge. This process becomes vital in our study as it gives an opportunity for new forms of intellectual property protection to emerge based on the resurgence of legal and cultural anthropologies. Law is central to hegemonic process as stated earlier, but it is also a useful reservoir for counterhegemonic struggles. This is especially seen when the eminent realities are seized by those who in other instances might have versions of social relations formally consented to and other cultural meanings recognised. ***If indigenous communities can manage to change the current intellectual property laws, that is, deal with protection from their own cultural perspective, it is possible that overturning the understanding of intellectual property rights can bear some hegemonic consequences on the current social, political and economic relations and in turn new forms of ownership might be recognized.*** This then means that indigenous communities can be accorded an opportunity to contribute to the cultural, ideological and power struggles of the South African community. 31 Coombe continues to point out that ***law, then, is culturally explored “as discourse, process, practice, and system of domination and resistance” (1998: 26) to be connected to larger historical movements while remaining sensitive to the nuances of “the ontological and epistemological categories of meaning on which the discourse of law is based” (1998: 26). Historically structured and locally interpreted, law provides means and forums both for legitimating and contesting dominant meanings and the social hierarchies they support.*** Hegemony is an ongoing articulatory practice that is performatively enacted in juridical spaces where, as Susan Hirsch and Mindie Lazarus-Black put it, “webs of dominant signification enmesh at one level even those who would resist at another,” (1998: 26) and “hegemonic and oppositional strategies both constitute and reconfigure each other” (Comaroff 1995: 9). Legal situations usually shape the social meanings, which are assumed by signifying properties in public spheres. These social meanings are socially produced in fields which are typically seen by inequalities of digressing from subject to subject and material resources, symbolic capital, and access to channels of communication as Coombe expands: “if culture is our nature, whatever threatens to shut down, repress, or distort representation through the assertion of some absolute ‘presence’ threatens also to put an end to both culture and history” (1998: 26). ***Intellectual property rights currently formulated in our current context pose a threat to contemporary societal practices, invariably freezing forms, deeming denotation, and containing connotation.*** With the process of commodification of different cultural forms, there is a creation of new relations of power in contemporary cultural politics. With indigenous knowledge system it is hoped that it can play an important part in the creation of new power relations in South Africa. Its input will be a force to reckon and bargain with as many South Africans operate within its framework. For Coombe, laws ***legitimise and reinvigorate sources of “cultural authority by giving the owners of intellectual property priority in struggles to fix social meaning***” (1998: 26). If one draws examples principally from the field of trademark law of the cultural politics that engage commodified cultural signs in the condition of postmodernity, Coombe suggests that “the commodity/sign is always simultaneously participating in a poetics and a politics driven by social groups with differential abilities to influence the complexes of signifying forms within which they have agency” (1998: 26; 15 & 285). Cultural meanings are constantly contested. It is through this contest that indigenous knowledge can seek to have an upper hand and influence the discourse so that cultural 32 considerations from the indigenous communities can play a vital role in balancing the power relations which control the South African society. Coombe concludes by saying that increasingly, the holders of intellectual property rights are socially and juridically endowed with monopolies over the public meaning and the ability to be able to “control the cultural connotations of their corporate insignias (trademarks being the most visible signs of their presence in consumer culture). Intellectual property, then, is an arena for connotative struggle – ‘contested culture’” (1998: 26). It is against this background that I would like to examine intellectual property and its hegemonic role in cultural contestations. The existence of such laws intrinsically implies that certain communities by nature of their development have more latent power than other communities especially indigenous communities. There is a constant tension over this struggle, as indigenous communities would like to assert their control on the hegemonic process by claiming the importance of their indigenous intellectual property. On the one hand, it has been ignored and on the other hand, it has been exploited from the time of conquest till today.

**Intellectual property laws on Indigenous Knowledge suffocate the dynamic nature of Indigenous culture. The 1AC’s interaction between law and culture is crucial to create new ideologies that consider the input of IK in legal frameworks.**

**Mukuka 10** [George Sombe Mukuka holds two PhD degrees: in History from the University of KwaZulu-Natal and in Archaeology from the University of Witwatersrand. “Indigenous Knowledge Systems and Intellectual Property Laws in South Africa” Feb 20,2010 https://core.ac.uk/download/pdf/39667211.pdf] //aaditg

7.3 ***Protection of indigenous knowledge systems under current intellectual property laws*** It has been suggested that ***indigenous knowledge systems could be protected under the current intellectual property laws; this solution as I have argued, presents more problems than it solves*** and it could suffocate the dynamic nature of indigenous knowledge systems. It also promotes the view that Europeans and /or people in position of power will continually mismanage indigenous communities because the protection of this knowledge will function in an alien milieu. For any protection of indigenous knowledge to be meaningful, the cultural background used by the legislation must be in keeping with that indigenous knowledge. ***Moreover, for the protection of indigenous knowledge, consideration of the lived experience of its holders is vital in determining the appropriate framework to protect this knowledge***. As I indicated earlier, ***the interaction between 223 law and culture can bring forth new hegemonies and ideologies. In our case, considering seriously the input of indigenous knowledge into our legal frameworks can give rise to a new form of thinking*** ***and at the same time bring these knowledge systems into the mainstream of knowledge as a force to bargain and reckon with.*** ***The contested indigenous experience is an invaluable source of input for society as a whole***. In this study, I highlighted the roles played by the Hoodia and the Hypoxis and in some instances, there was an inalienable relationship between the properties of these plants and their functions in society. ***The western view of intellectual property law is based on the rewarding of individual efforts: “reap where (you have) sown” (Mostert 1987: 480). Proponents of the natural law theory, like Joseph Kohler, promoted this view and it has become one adopted by virtually all Western cultures.*** Furthermore, the association of intellectual rights with personality rights further strengthened the need for individual protection of intellectual property rights. This developed out of a social structure alien to most African cultures in which community and collective ownership are the key drivers. ***The development of this knowledge has been incremental in the sense that each generation modifies certain things to fit their situation and the knowledge is passed on from one generation to the next. This process makes it almost impossible for indigenous property rights to function***

***within the Western individual-orientated legal frameworks.*** The modus operandi of these rights is totally different from Western rights which are protected by current intellectual property laws. We need a system which will fully and adequately cater for the needs of the kinds of collective ownership typical of African indigenous communities, taking into account their peculiar social needs and situation. In using the Hoodia plant as an example of indigenous knowledge exploited for the benefit of an indigenous community, in this case the San people of South Africa, Botswana, Angola and Namibia, the patent granted to the CSIR was, through the efforts of the legal interventions of Mr Roger Chennells, used to benefit the San community. However, the rights of other possible claimants such as the Northern Sotho, Tswana and Venda-speaking groups, who had used the Hoodia for similar purposes, were overlooked, as I have pointed out.