# 1AC -- Biocolonialism

#### 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”.

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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’.

#### 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.

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**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.

#### Compensation tactics fail – they take too long and don’t end up benefitting Indigenous peoples.

**McGonigle ’16** [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

Previously, companies tended to compensate indigenous people for their role in the drug discovery process by according them a share of the profits from the drug once it had been commercialized. 6 **But the long period of time needed for drug discovery and clinical trials, often ten years or more, was thought to render such a mechanism of reciprocity unsatisfactory for the contemporary holders of traditional ecological knowledge (TEK)7 that help develop the drug**.8 Furthermore, **in most cases, the knowledge shared would not lead to a commercial end product, so that when compensation was structured in this way, no benefit of any kind would ultimately accrue to the indigenous people.**9

#### 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 biocol**oni**al 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).

#### The Convention on Biological Diversity is *inadequate garbage* that fails in *every possible way* – it doesn’t take a stance on whose knowledge claims should be trusted, protect local resources, nor bring benefits to Indigenous communities.

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* Hereafter referred to as “CBD”

Though the ethnopharmacology community has amply debated and discussed the issue of the protection of indigenous intellectual property, and has established guidelines for just exchange agreements with native communities,28 **this debate has yet to incorporate the underlying issues of whose knowledge and claims are trusted**, and what kinds of expert knowledge should prevail in making trade agreements (be they Western scientific, local indigenous, or a hybrid compromise version). Moreover, **it is now clear that the Convention on Biological Diversity29 (CBD), the main international treaty that has established the legal framework for the protection of the indigenous intellectual property, and follow-up international agreements,30 have not yet yielded the intended results of giving satisfactory ‘scientific value’ or protection to local resources, nor bringing adequate benefits to indigenous communities**.31 **The CBD signatories grant access to natural resources to the biodiversity in their territories, based on ‘reasonable’ terms,32 but the outputs from biotechnology and industrial development are generally considered private property, allowing local stakeholders to be cut off from the downstream benefits.**

#### Traditional Knowledge is the origin for innovation, but current formal systems are built to harm Indigenous peoples – only effective policy outcomes solve.

Bagley et al. ’17 [Margo Bagley is a CIGI Senior fellow and is the Asa Griggs Candler Professor of Law @ the Emory University School of Law, Ruth Okediji is the Traditional Knowledge Expert Group Chair and Jerimiah Smith Jr. Professor of Law @ Harvard Law School, Kathy Hodgson Smith is a Canadian Indigenous Lawyer and a member of the Métis Communities, Jerome Reichman is a CIGI Senior Fellow and the Bunyan S Womble Professor of Law @ Duke Law School, Graham Dutfield is a Professor of International Governance & Faculty of Law at Leeds University, the video is titled “What is Traditional Knowledge?”, the article is titled “What If a Patent Is Based on Traditional Knowledge?”, 06-12-2017, Centre for International Governance Innovation, evidence is transcribed from the video using the written subtitles , 0:00 – 1:45 ,https://www.cigionline.org/multimedia/what-if-patent-based-traditional-knowledge/]//pranav

Traditional knowledge in particular, represents innovation, it represents culture, it represents history, it represents the present, it represents the future. Traditional knowledge means different things to different people. It may relate to genetic resources, plants, animals, insects, that are native to the area where that particular community resides. Indigenous peoples have an insight into sustainable development and conservation and protection of biodiversity and that there’s something important in that, that we need to hear. When Indigenous people suffer from illnesses from microbes, what have they done to combat those illnesses? Have they used plants, have they used some food? These are clues to potential sources of medicine. What this project does at CIGI, is it makes visible the people and the cultures and the norms and the values that undergird the formal systems to which we pay so much attention, to the detriment sometimes of the people who historically have been the origin of much of the innovation and much of the knowledge that we enjoy and experience today. What we need to do in our Expert Group, is to ensure that evidence is made available and packaged in a way that can actually directly transfer into policy outcomes at these important forums in Geneva and elsewhere in the world.