

“When Descendant Communities are the the Driver’s Seat”:  
Examples of Collaborative, Community-Based  
Heritage Research from the IPinCH Project



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and the IPinCH Collective

# Ethical Challenges in Archaeology Today



- Rethinking the process of archaeology as it relates to descendent communities
  - Redressing the power imbalance
- Understanding the nature of Indigenous heritage concerns

## Confronting the Legacy of Scientific Colonialism...

- Controlling flows of information;
- Extracting cultural capital as raw data;
- Excluding people at the source;
- Claiming right of access to data;
- Processing data into social and economic capital;
- Claiming property rights over knowledge produced from data;
- Benefits rarely go back to the source.



Hollowell and Nicholas

“Archaeological Capital as Cultural Knowledge,” 2007

## coupled with popular view of Indigenous Heritage as Public Domain



Miss Canada Samantha Tajik poses for the upcoming Miss Universe Competition in the central city of Nha Trang on Friday, July 10, 2008. (AFP Photo/Darren Decker, Miss Universe)





## ...Can Lead to Real Harms for Indigenous Communities

- Lack of access to, control over own heritage
- Loss of access to ancestral knowledge and property
- Diminished respect for the sacred
- Cultural distinctiveness becomes commercialized
- Improper/dangerous uses of special or sacred symbols
- Loss of confidentiality
- Reproductions replace original tribally produced work



Southwestern pictograph



Modern jewelry

How can we gain a better understanding of  
how, where, and why intellectual property  
issues emerge?

How we can resolve or avoid them?



# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy, Ethics*



## Who Are We?



*IPinCH Community Based Heritage Research Workshop, October 2010*



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## IPinCH Project Objectives

- to document the diversity of principles, interpretations, and actions arising in response to IP issues in cultural heritage worldwide;
- to analyze the many implications of these situations;
- to generate more robust theoretical understandings, and good practices;
- to make these findings available to stakeholders—from Indigenous communities to professional organizations to government agencies—to develop and refine their own theories, principles, policies and practices.





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## 1) Working Groups



- Collaboration, Relationship, and Case Studies
- IP and Research Ethics
- Bioarchaeology, Genetics, and IP
- Cultural Tourism
- Commodification of the Past?
- Digital Information Systems & Cultural Heritage
- Customary, Vernacular, and Legal Forms
- IP & Cultural Heritage Sourcebook

## 2) Knowledge Base



# IPinCH Knowledge Base

## Intellectual Property Issues in Cultural Heritage: Theory, Practice, Policy, Ethics

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 **SEARCH**

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 **USER LOGIN**

Email:

Password:

Record #	Type	Citation
15	Article - journal (print)	Widdowson, Frances, Howard, Albert. 2002. The Aboriginal Industry's New Clothes. <i>Policy Options Politiques</i> , 31:30-34.
26	Article - journal (print)	Robbins, Bruce, Stamatopoulos, Elsa. 2004. Reflections on Culture and Cultural Rights. <i>The South Atlantic Quarterly</i> , 103 (2/3):419-434.
33	Report (Published)	Thom, Brian. 2006. Respecting and Protecting Aboriginal Intangible Property: Copyright and Contracts in Research Relationships with Aboriginal Communities. Ottawa:Department of Canadian Heritage, Copyright Policy Branch, PCH contract no.45172644.
115	Editorial - journal (print)	Bouchenaki, Mounir. 2004. Special Double Issue: Views and Visions of the Intangible. <i>MUSEUM International</i> , 221-222(May):1-3.
117	Article - journal (print)	Mihesuah, Devon A. 1993. Suggested Guidelines for Institutions with Scholars who Conduct Research on American Indians. <i>American Indian Culture and Research Journal</i> , 17.3:131-139
126	Article - journal (print)	Farrer, Claire R. 1994. Who owns the words? An anthropological perspective on public law. <i>Journal of Arts Management, Law &amp; Society</i> , 23(4):317-327
132	Article - journal (print)	Blain, Jenny, Wallis, Robert J. . 2004. Sacred Sites, Contested Rites/Rights. <i>Journal of Material Culture</i> , 9 (3):237-261
134	Article - journal (print)	Aldred, Lisa. 2000. Plastic Shamans and Astro turf Sun Dances: New Age Commercialization of Native American Spirituality. <i>American Indian Quarterly</i> , 24 (3):329-352
135	Conference Proceedings	UNESCO. 2005. Expert Meeting on Inventorying Intangible Cultural Heritage. 2005, 17 March, 18 March, ; Paris , France. Paris:UNESCO.
136	Government Publication - full, section (print)	UNESCO. 2003. Convention for the Safeguarding of Intangible Cultural Heritage. . UNESCO. . . Paris:UNESCO.
156	Conference Proceedings	Japanese Agency for Cultural Affairs and UNESCO. 2004. International Conference on The Safeguarding of Tangible and Intangible Heritage. 2004, October 20, October 23, ; Nara, Japan. Nara:Japanese Agency for Cultural Affairs and UNESCO.
159	Report	Pickering, Dr. Michael. 2006. Aboriginal and Torres Strait Islander Secret/Sacred and Private Material Policy



### 3) Case Studies/Community-Based Initiatives

“What Happens When the Community is in the Driver’s Seat?”

— Sheila Greer



*Geronimo in his Cadillac, 1905*





## IPinCH Community-Based Heritage Projects

- Community values and needs foregrounded in the ground-up research process.
- Studies are identified by and co-designed with community, which benefits directly.
- Once project is complete, community vets research products and data to determine what information can be released to IPinCH team.
- Community retains/controls raw information collected and ensures no sensitive or secret/sacred information is released.





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*Theory, Practice, Policy, Ethics*



## A Case of Access: Inuvialuit Engagement with the Smithsonian MacFarlane Collection

Natasha Lyons, Kate Hennessy, Stephen Loring, Charles Arnold,  
Cathy Cockney, Mervin Joe, Albert Elias, James Pokiak,  
Maia Lepage, and Inuvialuit Cultural Resource Centre

Repatriation and restoration of knowledge from museum collections.



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# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy, Ethics*



## Education, Protection, and Management of *ezhibiigaadek asin* (Sanilac Petroglyphs)

Sonya Atalay, Shannon Martin and William Johnson  
Ziibwiing Center — Saginaw Chippewa Indian Tribe

Co-management plan development with State for petroglyphs  
and associated intangible values.





# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

## *Theory, Practice, Policy, Ethics*









*Secwepemc Territorial Authority Honoring Ownership  
of Tangible/Intangible Culture*

Arthur Manual



Brian Noble



What do “cultural heritage” encounters look like if we fully accept and act upon the premise that Secwepemc peoples have economic, political, and legal authority within their territory.



# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy, Ethics*



## *Grassroots Resource Preservation and Management in Kyrgyzstan*

Anne Pyburn and Asipa Zhumabaeva

Sustainable, culturally-appropriate, and community-embedded projects that address the preservation and educational use of intellectual property and cultural heritage.



# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy Ethics*



## *Developing Policies and Protocols for the Culturally Sensitive Intellectual Properties of the Penobscot Nation of Maine*

Bonnie Newsom, Martin Wobst, and Julie Woods

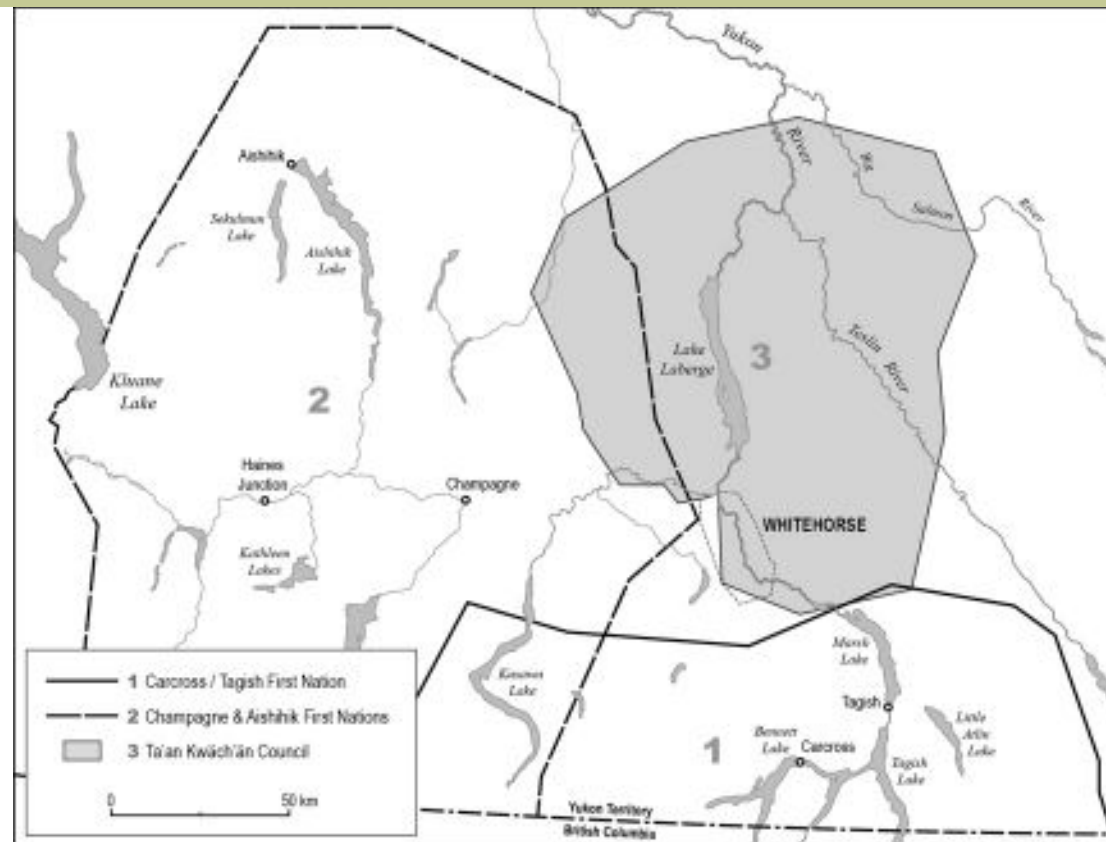
Long-range stewardship plan and research protocols for tribal IP





# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

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## *Yukon First Nations Heritage Values and Heritage Resource Management*

Sheila Greer, Heather Jones, and Paula Banks

Local conceptions of heritage values in aid of self-governing  
Yukon First Nations' management of their Heritage Resources.



# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy Ethics*



## *Hokotehi Moriori Trust: Heritage Landscape Data Base (Rehoku, New Zealand)*

Maui Solomon and Susan Thorpe

Database of traditional knowledge of cultural landscape that  
brings together elders and youth.



## Other Case Studies (later this session)

*The Journey Home - Guiding Intangible Knowledge Production in the Analysis of Ancestral Remains*

- Dave Schaepe, Sue Rowley + Stó:lo Research and Resource Management Centre

*The Ngaut Ngaut Interpretive Project: Providing Culturally Sustainable Online Interpretive Content to the Public*

- Amy Roberts and the Mannum Aboriginal Community Association Inc.

*Treaty Relations as a Method of Resolving IP Issues*

- Michael Asch

## In Planning:

- *Ainu Conceptions of Heritage* (Japan)
- *History of Hopi Heritage Protocols* (US)
- *Socioeconomic Impact on San of Heritage Revitalization* (southern Africa)





# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

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## IPinCH's Community-Based Heritage Research

— Some Lessons Learned —





# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

*Theory, Practice, Policy, Ethics*

- 1) On-the-ground studies reveal different conceptions of “heritage,” “property,” and proper care.



*Moriori Descendant Nicole Whaitiri with her Ancestor*



## INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

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### 2) Repatriation of heritage not limited to material items



NMNH-E001720  
MacFarlane Collection  
(1866)



Left: moccasins from the MacFarlane Collection;

Right: moccasins made from this pattern by Freda Raddi of Tuktoyaktuk



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## 3) Need / Demand for Indigenous-Based Heritage Models





#### 4) A Different Research Process

- Direction must come from heritage holders;
- Community priorities different from academic schedule;
- May be difficult to devote human resources in face of more pressing needs;
- Discrete goals (single or in series) more manageable and potentially more satisfying than open-ended initiatives;
- Communities want to involve both elders and youth.





# INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE

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## 5) Challenges of Community-Based Research

### A) Negotiation

- Need to develop mutual understanding of needs, goals, methods, and outcomes, including data access, publishing, etc.;
- Need to develop trust and respect;
- Cross-cultural differences may be substantial and not always apparent.



*IPinCH - Nibutani Village Meeting, Hokkaido,  
January 2011*



## 5) Challenges of Community-Based Research (*continued*)

### B) Ethics Reviews / Institutional Review Boards

- For each IPinCH case study, review needed at three levels:  
SFU, other universities, and involved communities;
- One community co-developer needed to obtain ethics approval for a case study that involved their own community;
- Good intentions by one researcher incensed by bureaucratic imposition of university regulations on an indigenous community actually delayed project for months and caused considerable frustration for the community partners.



## 5) Challenges of Community-Based Research (*continued*)

### C) University Policies

- Things take much longer than ever anticipated;
- Difficulties in transferring funds from university to First Nations;
- Universities have indicated concerns that their faculty don't own the research data;
- Our funder SSHRC encourages “outside the box” projects, yet the current Canada's Tri-Council Policy to which Canadian universities adhere not ready to fully accommodate them.
- Plus, some universities and granting agencies wary of “collaborative” projects because can't control process or outcomes.



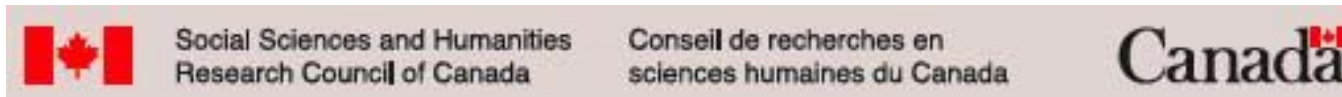
## IPinCH: One Model of Constructive Engagement

- Addresses the needs of communities and scholars in a fair and equitable fashion.
- Community values and needs foregrounded in research process
- Studies co-designed with community who benefits directly.
- Community controls flow of research data within case study and its later release.
- Strong sense of personal satisfaction by those engaged;
- Heritage is a living thing.





# Thank You



“Perpetuation” by Leslie Sam (lessLIE)  
Coast Salish Artist

For more information on the IPinCH Project and Case Studies:  
[www.sfu.ca/ipinch](http://www.sfu.ca/ipinch)