

FINAL REPORT

Rankin Inlet, Nunavut May 24-27, 2001



ሪም%**ራ**σ%**, ወ22-**27, 2001

INUIT WOMEN'S TRADITIONAL KNOWLEDGE WORKSHOP ON THE AMAUTI AND INTELLECTUAL PROPERTY RIGHTS

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Inuit Women's Traditional Knowledge Workshop on the Amauti and Intellectual Property Rights

Final Report Rankin Inlet, Nunavut May 24-27, 2001

March 2002 © Pauktuutit Inuit Women's Association

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The opinions expressed in this document are those of the authors and do not necessarily reflect the official views of the funding agencies.

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FINAL REPORT

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INUIT WOMEN'S TRADITIONAL KNOWLEDGE WORKSHOP ON THE AMAUTI AND INTELLECTUAL PROPERTY RIGHTS

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article 8(j) of the Convention on Biological

Diversity (1992) mandates Contracting Parties, as far as possible, where appropriate, and subject to national legislation to: respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities embodying traditional sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

She commented that to write about how a caribou *amauti* was made that it would be a very thick book from the moment of cutting up the caribou. She commented how she thought detailed information would be necessary. Also she raised the need to rush because people are starting to die off and... Inuit will be able to teach young people. She commented that a few people know how to make amautis out of bird skins. Her big worry is the sewing skills that young people will have and she wonders if they will learn to be great seamstresses similar to the ones of the past. She expressed her great pride of amautis that do not require the belt. She commented that if someone were able to make a book that they would have to include all the different women who make comfortable and beautiful amautis and be very

 $\Delta c^3 U 8(j)$ Dardosberos attingology 4ምንብና (1992) በ-ተ/ኒካር \dot{b} ንናቴክበንጋበ ለ-ኢላቴክበኦላሪ. $Q_{\Gamma} = Q_{\Gamma} = Q_{\Gamma$ $\Gamma_{\mathcal{C}}^{*}$ ለጋነብነት $\Gamma_{\mathcal{C}}^{*}$ ለጋነት $\Gamma_{\mathcal{C}}^{*}$ ነር ነገታ ነበት $\Gamma_{\mathcal{C}}^{*}$ $$^{4}^{\circ}$$ $\forall \Gamma$ $C\Delta L^2 \Delta^C J \sigma^6$ $GC^4 J G J^2 G J^4 G J^6 G$ $ac^{6}bD^{c}/d^{6}D\Pi^{c}$ $\Delta bd^{6}CD^{b}d\Pi\dot{C}_{ab}D^{c}D_{b}$ $d\Gamma^{6}\dot{b}h\Pi^{6}b^{6}C^{6}b^{4}\Gamma^{6}$ $\text{QL} \quad \text{$\Lambda$$-$\Lambda$$-$\Delta$$-$D$$-$CDLD$-$NCD$$-$C.}$

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A large loose shoulder enables the mother to bring the child around from her back for nursing.

JAN SLONDS FRYSTOND DIST Saadt MITTO ITONY LASCONNLIN SLLNG J-FUT. detailed with recognition given to the women. She listed the names of some Inuit women from different regions that were known for making comfortable and beautiful *amautis*. She also shared how she makes different coats and how she can go to different communities to find people making the same coats. She voiced how she wished Inuit wouldn't say they did not have the ability because they are so capable and she questioned if it was because of the lack of formal education or too much modesty.

Comments made by a participant from Nunavut

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acknowledgements

This workshop was the first national consultation with Inuit
women in Canada on the issues of protecting their cultural
property, traditional knowledge and intellectual property rights.

It was also the culmination of several years of research and
development.

Pauktuutit would like to extend its thanks and appreciation to the many individuals and organizations that made this workshop possible.

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The discussions and outcomes would not have been possible without the participation of all those in attendance.

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Canadian Heritage;

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Status of Women Canada;

International Centre for Human Rights &

Democratic Development;

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Kivalliq Inuit Association;

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preparing the project proposal.

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introduction Historical evidence

indicates that the style and form of the amauti and other Arctic clothing has changed little over the centuries. This is evident from Inuit oral history and the records of early explorers. Caribou and seal have been traditional sources of food and the raw material for clothing, shelter, and even boats. Caribou hair is hollow and is an ideal insulator for winter clothing. As the inner liner for clothing, the hair is water resistant and this reduces the risk of matting and sticking from sweat and condensation. The water repellent qualities of sealskin make it the preferred material for clothing during the wetter spring and summer months. Modern materials such as wool duffle and printed calico are now commonly used to make the amauti but the shapes and styles remain.

The distinction between an Inuit man's parka and the *amauti* of a woman is common throughout the Arctic. Regional and community variations in clothing designs can readily be distinguished. The style and decorations of the *amauti* can indicate a region and location. Different styles also indicate the age and status of a woman in the community. For example, an

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amautit is worn by women who do not have children. It does not have a pouch to carry a child. In the Western Arctic, it is called a *niviaqsiaqsiuti*. Some *amautis* are worn for work, some for hunting, others are made for special occasions. Decorations can denote social status.

The *amauti* is unique in that it is designed with a large hood and pouch in which to carry a child. This allows for the mother to remain in close contact with her child yet it frees her hands for other activities. A large loose shoulder enables the mother to bring the child around from her back for nursing. The child always remains protected from the elements. The *amauti's* custom fit, combined with a flap in the front and back, protected the child from the cold. For example, the child could be held in front of the mother while under the *amauti* in order to go to the bathroom. A child may not have any clothing but a hat until the age of three. This close and prolonged contact between the mother and child extended breastfeeding and helped to space births.

Traditionally, women were responsible for decisions regarding children, food preparation, and the running of the household. Some women have noted that in the past they were responsible for deciding what type of skin a man should bring home, what food should be brought home, and even were to erect the summer tent. In all activities cooperation, sharing, and complementary skills were essential in one of the most challenging environments of the world. Inuit women were fundamentally linked to the traditional harvesting and use of resources and to the long-term survival of their community.

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The *amauti* reflects the practical and functional adaptations of the Inuit and is intrinsically linked to Inuit culture. The *amauti* survives today and embodies a link to the past and to the skill sets and role of Inuit women. It embodies an emotional link with their children. It is a part of Inuit childhood. It is not surprising then that Inuit women are concerned about the misappropriation and loss of their cultural heritage. The modern world has expressed an interest in the *amauti* and Inuit fear they lack effective legal tools to protect their cultural and intellectual property. The *amauti*, however, has yet to be 'discovered' the same way the parka was discovered centuries ago.

Pauktuutit Inuit Women's Association (Pauktuutit) started to look at the promotion and protection of traditional Inuit clothing in 1994. A number of fashion shows have been held to highlight Inuit designs. In 1995, Inuit clothing was showcased at Toronto's Central Canada Exhibition. Other shows include Qaggiq '95 and Sanajavut: Our Creations. A clothing project called The Road to Independence was completed a few years ago. Its aim was to promote and enhance the production and marketing of traditional and contemporary Inuit clothing in an effort to promote economic development and independence for Inuit women. These initiatives have shown Inuit fashion and designs to people in the South and have helped Inuit women enter southern markets. The intent is to improve their employment opportunities by encouraging the sale of their creations to people outside of their local communities and regions. Inuit women can therefore remain in their communities and make a living based on traditional skills.

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In 1997, Pauktuutit became a member of the Indigenous Caucus of the Canadian Working Group on Article 8(j). The members of this group shared information and ideas on how Canada should implement the United Nations' *Convention on Biological Diversity* (CBD) and specifically Article 8(j) of the Convention. The working group gave Pauktuutit the impetus and encouragement to begin exploring the issues of traditional knowledge (TK) and intellectual property rights (IPR) in the context of the Inuit women's *amauti*. The garment was perceived as a suitable case study to look at the issues surrounding cultural property, traditional knowledge, intellectual property rights, and individual versus collective rights in the context of Canadian laws and legislation and in the context of international agreements and conventions.

Intellectual property concerns about the *amauti* became pressing in the fall of 1999 when the New York City fashion designer Donna Karan sent a buyer to the Western Arctic to collect older traditional Inuit clothing for inspiration for her fall 2000 fashion line. Pauktuutit mobilized a media and letter writing campaign to put a stop to this misappropriation of Inuit culture. The incident stressed the need to explore effective forms of legal protection that respect the nature of traditional knowledge and cultural heritage. The workshop in Rankin Inlet was an important step in this process. It was essential to consult with the stakeholders - the creators of the *amauti* - to define and clarify their IPR protection needs and determine what their expectations are. The consultation served to raise awareness about IP laws and the CBD and to increase the capacity to address these issues at the community level. It was a practical and technical

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examination of the application of the IPR system with respect to traditional knowledge.

Preparing for the workshop was a momentous task. Funding was a critical problem and a great deal of time and effort went into the endeavour. The workshop material required special attention. Effort was made to ensure that the material was visually appealing. The intent was to prepare plain language resources that could later be used by other organizations or groups that wished to hold similar consultative workshops on traditional knowledge and IPR. The subject matter is complex and often confusing so it was important that key terms, concepts, laws, and conventions were presented in an understandable manner. A plain language glossary was therefore prepared as additional reference material. Material also was prepared that:

- Described Canada's IP laws;
- Described the history of the CBD;
- Described the role of the World Intellectual Property
 Organization (WIPO) and its 1982 Model Provisions for
 National Laws on the Protection of Expressions of Folklore Against
 Illicit Exploitation;
- Detailed WIPO's recent Fact Finding Mission, including its consultations with Aboriginal peoples in Canada;
- Described Panama's *Act 20* which protects traditional knowledge and the collective property rights of its Indigenous peoples; and,
- Described a draft contract prepared by the *International*Centre for Human Rights & Democratic Development intended to help Indigenous women protect their intellectual property.

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Having all this technical information translated into Inuktitut proved particularly challenging. Many terms and concepts do not have self-explanatory equivalents in Inuktitut.

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The following report on the workshop briefly discusses the results of each day's work and then delves deeper into specific issues. The nature of the *amauti* and Inuit customary laws, the various concerns and issues raised by the workshop's participants, the final workplan, and the evaluation of the workshop provided by the participants are all discussed below.

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The Workshop Agenda A review of the agenda (see Appendix)

shows how the material and issues were presented in a manner that built upon each item. The first morning session introduced the workshop and its objectives and reviewed the workshop's written material. During the afternoon session, the co-chair Robbie Watt gave a visual presentation about the history of the amauti. The delegates then organized themselves into four break-out groups in order to consider a range of questions about what was an *amauti* and what was it that needed protection. Each group presented their findings to the plenary and these were discussed further. The intent of the exercise was to help document specific details about the *amauti* and what it is that requires IPR protection. The delegates were given an opportunity to discuss regional differences in the amauti's design, how one traditionally made the garment, how one learned to make it, and from whom. Importantly, the women felt the amauti was an identifier of northern women and people.

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The morning session on the second day was an open discussion that allowed delegates to express their concerns and experiences about the use and misuse of the *amauti* and of other innovations that embody Inuit cultural heritage. The delegates expressed their pride in the *amauti* and their concerns that it should be protected. The question of ownership was also discussed. The *amauti* is owned collectively by all Inuit though individual seamstresses may use particular designs that are passed down through the generations.

Another break-out session was organized to address questions about Inuit customary laws. The subsequent plenary session discussed each group's conclusions. The objective was to determine what standards and expectations could be incorporated into a new regime. It was important to document what customary practices guide the use and transmission of traditional knowledge associated with the *amauti*. Women expressed concern about revealing secrets about how the *amauti* is made but indicated that a person could copy a pattern if they had received permission.

The remainder of the second day was devoted to presenting information about the CBD. Delegates needed to understand the importance of the Convention in the context of traditional knowledge and innovations and how it related to the IPR issues before them. The delegates needed to understand how Canadian Aboriginal organizations and other organizations are participating in the process of implementation. Tamara Dionne Stout from the Indigenous Peoples' Secretariat on the Convention on Biological Diversity gave a presentation on the history of the CBD. The delegates discussed in detail the implications of the CBD and how Inuit need to be active participants in the process.

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On the third day, the delegates were introduced to specific aspects of Canada's IPR laws. The intent was to clarify some of the misunderstandings associated with various legal instruments. For example, delegates often spoke of trying to patent the *amauti*. It was explained that not only do patent laws not apply to the *amauti* but that it would fail the fundamental tests of novelty and originality that form the basis for patent protection. The *amauti* is not a new or novel product and it has a long history of traditional use. It is, however, a very useful product.

The applicability and limitations of copyrights, industrial designs, and trademarks were also explained and the delegates were given the opportunity to discuss the matter and pose questions. The long historical use of the *amauti* and the issue of collective versus individual ownership challenges the relevance and use of these tools. Though IPR laws are conceived to promote innovation and creativity, they also offer individuals or corporate entities economic and licensing rights. The workshop delegates were primarily concerned with the need for long-term protection of their cultural heritage, protection and collective ownership by Inuit as a people. It was suggested that trademarks or certification marks were suitable short-term forms of protection.

A common concern was that current forms of IPR protection may reduce the number of people who are willing to make the *amauti*. The delegates did not want any restrictions on Inuit to use or benefit from their own traditional knowledge, culture, and intellectual property. Delegates recognized the urgency for a mutually defined and accepted framework with which to begin seeking a new form of protection.

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The afternoon session on the third day was devoted to international examples and experiences. It was with great pleasure that Pauktuutit was able to invite Graciela Magan from Peru's *Center of Indigenous Cultures* (CHIRAPAQ) and Sonia Henriquez from

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the Coordinadora Nacional de Mujeres Indigenas de Panama (CONAMUIP). These two women shared their experiences with the delegates and helped place the IPR concerns of Indigenous women into an international perspective. The delegates were directed to the reading material that addressed WIPO's activities and to a draft contract prepared by the International Centre for Human Rights and Democratic Development. The contract was developed to guide and aid Indigenous people who are allowing access to their the intellectual property by an outside individual or company.

The final day of the workshop was geared towards developing a strategy or workplan. The effort had been to provide the delegates with a better understanding of potential tools and directions that they may choose to initiate. Discussion began about the value of trademarks and how this could be practically implemented. The delegates had been informed about the *igloo tag* trademark that was managed by the Department of Indian and Northern Affairs Canada. They were asked to consider its usefulness. Delegates also considered collective marks, official marks, and the formation of an association or public authority. An association could serve the collective needs of Inuit seamstresses and could register for trademark protection. Such marks would guarantee the quality and authenticity of the garments. Delegates were very interested in the practicalities associated with a trademark or label. They wanted a clear understanding of how it would impact the making of their amautis. It was stressed to the delegates that these were commercial tools and that they could not effectively prevent anyone, Inuit or non-Inuit, from entering the market with products based on traditional knowlላካት ጋየተወከፈናተላ የሚታበት ፌት Γσቴ የሚታገና ለተሚ ወንበ የታወተ ልና ልታት ነበ የታወረት የሚታበት ውደም የተፈተው መልቴ የተመተከተ የተፈተው ነበ የተመተከተ የተፈተው ነበ የተመተከተ የተፈተው ነበ የተመተከተ የ

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edge. Delegates felt that rather than try to fit Inuit needs within existing IPR laws, that perhaps a new law should be created that would effectively protect against the misappropriation of their cultural heritage. Based on these discussions, a workplan was developed.

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What is an Amauti? As a

baseline for the workshop, the participants were asked on the first day to respond to a series of questions about the amauti. The intent was to place the garment into its historical and regional contexts and to identify why it was an important item worthy of protection. The questions stimulated discussion about the social importance of the amauti and the links to Inuit traditions. Participants expressed concern about the loss of traditional manufacturing techniques like hand measurements, the loss of custom fittings in favour of standardized sizes, and the decline in the use of traditional materials. In the past, patterns and styles were passed down between generations. There were suggestions that rules used to exist about how one learned to make an amauti.

The women felt the *amauti* was an identifier of northern women and people. The shape and design help identify where an *amauti* was from. The older designs were based on practical considerations whereas today's designs are more likely to incorporate southern materials and to focus on styles and decorations. It was noted that traditional materials require more work than modern

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materials. Ideally, an *amauti* should be made to a custom fit.

Those made today are often based on standardized sizes of small, medium, and large.

Participants were asked how they wanted to protect the *amauti*. Recording regional and community differences as well as the names of the designers was felt to be important. They stated these things needed to be written down. They felt there was a need to revive hand-measuring techniques and to learn from the Elders. There was a need to record the different things that have to be known about preparing and using animal skins. The delegates felt that non-Inuit should not learn how to make *amautis*. They expressed concern, however, that protecting the *amauti* will prevent Inuit women from making them. It was viewed that a women's association should manage the task of recording and protecting the *amauti* because it would be more sensitive to their concerns and needs. Inuit women may not trust other bodies that have not been that supportive. The work should begin at the community level but be organized at the national level.

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Customary Laws An important

objective of the workshop was to develop a better understanding of the customary laws and rules that govern access to the patterns and techniques associated with the *amauti*. Such an understanding would lend itself to developing a more Inuit-specific or *sui generis* (local or traditional) form of protection. A number of questions were prepared for the participants.

Break-out groups were arranged and the questions were divided among them. Each group's responses were then presented to the plenary and discussed further.

Overall, access to the traditional knowledge of the *amauti* is relatively informal. Inuit are taught to share, not to refuse. None of the knowledge is written down. It "...goes on forever because Inuit own them...." Participants indicated that the sources for certain rules are now unclear. In the past there were rules about who could make *amautis*. Inuit make *amautis* the same way as in the past and they are still Inuit designs. Knowledge is passed down between generations but it is owned by all. Ownership is held by the ancestors, not by the individual. Therefore no Inuk/Inuit can be denied the right to learn it. As one break-out group noted: "Because people are always dying, their knowledge is passed down to their children and so the knowledge will always belong to Inuit."

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Δϲჼ፥ዘ/ጋቼነՐ ቼውኦLσጋቼሌታውላና 《LDnJና ለላጐልጐውላና $\sqrt{4}$ ና $\sqrt{4}$ ነት $\sqrt{6}$ ነት $\sqrt{$ In the past, Inuit would follow the appearance of their parent's garments as well as those of close relatives. They would learn from older Inuit. Today, any patterns can be used though there are suggestions that some secrets remain about the *amauti*. Use of a pattern may require permission.

It is clear that there were customary rules about the use of specific or regional designs. There were rules about the butchering, drying, and preparation of skins and about how patterns were measured. In some cases, it was the women who determined what type of animal was to be hunted. There are also rules about the style and decoration of the *amauti*. It was not always possible to ask about different designs; such knowledge was passed down between parents and children. The documentation of designs and styles would probably clarify these issues.

Participants raised some concern about the misuse of regional designs. On the one hand, any Inuk should be able to learn the different regional styles. On the other, it may not be proper for an Inuk to start profiting from the designs of another region. This raised the question of what an individual owed a community for the use of traditional knowledge. Those who make a profit should give back to the communities. It was suggested that an association or organization with a membership should be formed to ensure that knowledge about the *amauti* is returned to the community. If there was to be some form of protection, all Inuit women should be able to have access. Delegates clearly stated that non-Inuit should be restricted or denied access to the use of this knowledge.

The discussions suggest that there are no clear customary laws that can define or dictate access to the traditional knowledge of the *amauti*. The delegates recognize the changing situation and indicated that perhaps some traditional/modern hybrid system would be appropriate. Regional differences should be documented and some form of compensation should be returned to the community were a design originated. The objective is not to control or restrict an Inuk's access to the knowledge but to help preserve a community's knowledge. It is unclear how this knowledge will be accessed and taught in the future other than in a traditional manner. It was felt that it was important to protect the old ways for making the *amauti*. One suggestion was to have an agency or agents to manage designers, the use of designs, and the compensation due to a community.

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ISSUES Throughout the workshop many issues were raised by the delegates. They provide valuable insight into the mood and concerns of the participants and the depth of the discussions. The issues have been organized here into general categories and are presented below. They are offered as a resource and as a reference with which to better understand the concerns and expectations of the stakeholders.

Loss of traditional sewing and manufacturing techniques:

- No longer using the size of the hand to measure and fit the *amauti*.
- Need to revive hand-measuring techniques from Elders; old people still use their hands to measure and cut patterns from skins. There are too few Elders around today.
- © Loss of traditional sewing and measuring techniques is leading to *amautis* no longer fitting comfortably.
- § Issue of custom fits versus standard small, medium, large sizes.
- Amautis risk being lost if they are made from patterns instead of the traditional method/technique.
- § Style and decorations are superseding traditional concerns over comfort and form. Traditionally, all *amautis* were custom fit for comfort.

Traditional materials and styles:

- Traditional materials such as skins and fur are being lost to modern western materials like calico and duffel.
- Garments of skin require more work.

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- Should begin to record different ways and styles of *amautis* in all the communities.
- © Concern that *amautis* that are made for *qallunaat* are being changed to suit their desires; *amautis* are being made without pouches or large hoods.

Concern over the value of hand-made *amautis*:

Inuit women are undervaluing their work and are not getting a good price for their efforts.

Amauti as an art form:

- § Some clothes are art.
- Amauti is not an art form like a sculpture; it is utilitarian, practical, and comfortable.
- © Cloth patterns can be protected from alteration and copying.
- Should individual *amautis* be protected or all variations of the *amauti*?

Qallunaat should not learn to make *amautis* but should buy them from Inuit makers:

- § Similar concern with *kamiks*, duffel socks, mitts, and hats.
- Non-Inuit are going up north and learning how to make these forms of clothing.
- Inuit women are protective of their traditional designs.
- Inuit want to prevent exploitation of the *amauti* without prior informed consent.

Too few Elders to pass on the sewing skills to younger Inuit:

Will younger people learn to be great seamstresses like in the past?

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- Younger people working on this project may feel intimidated by elders.
- People may not be well versed in traditional knowledge.
- Elders are not aware of all the laws and the possible obstacles and challenges that will be faced.

Concern that the *amautis* that have been handed down to others are now being taken apart and used as patterns to make other *amautis* for profit:

- Presently a person can buy an *amauti* and take it apart to use as a pattern to make new ones, possibly for sale, and without asking permission from the person who made the original.
- Raises the question of ownership of the pattern and who and how the *amauti* is being reproduced.
- © Currently there is no need to ask for permission. Permission should be requested.
- Different from the past where patterns were passed down from parents to children.

Inuit should not lose their cultural ways in order to protect the *amauti*:

- Need to cooperatively think of the best way to protect the *amauti* that is appropriate to the Inuit way and not just meet the existing concerns of lawyers.
- Fitting into already defined forms of protection is not good enough.
- $\ensuremath{\,^{\circ}}$ Need to document knowledge to give it strength.
- Important to protect the old ways of making the *amauti*.

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Labelling amautis:

- Inuit do not just want a label but also want something that will be able to protect the *amauti*.
- All Inuit must have the right to make the *amauti* but it must not be replicated by non-Inuit.
- The effort is not to reduce the number of Inuit who can make the product.
- Labels must not be exclusive; they must protect the collective.
- Any label or broader form of protect must be owned by a collective body.
- The label should be similar to the igloo tag with information about the creator and where they are from; the mark should be a cultural property or cultural heritage mark.
- The label should require social standards that identify the product as fairly made and traded.
- The label should add value to the product.
- The label should serve as something recognizable and enforceable through legislation.
- Recognition must be given to the maker of the *amauti*.
- The labelling system should be implemented until a more comprehensive mechanism or tool can be developed.

Inuit-specific forms of protection:

- Protecting the *amauti* within existing IP laws fails to meet the collective concerns and values of Inuit.
- Mechanisms should address cultural property instead of intellectual property.
- The laws must respect Inuit values of helping and sharing.
- © Current forms of protection have time limits.

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- Need a form of protection for traditional knowledge without a limit.
- Develop a form of protection that lasts the lifetime of the people; create a new mark of protection.
- Protection must respect collective knowledge.

Collective rights:

- The forms of protection for intellectual property that are sought are for all Inuit.
- No Inuit or Inuk woman should be excluded from this protection.
- Future Inuit peoples must be protected by these laws and mechanisms.

Non-government, cross-jurisdictional authority:

- A national body or group should be formed to oversee the work to protect the *amauti*.
- A women's group should act as the protector of the *amauti*Ouestion of trust.
- Need to work cooperatively between regions to protect the *amauti*.
- Do not want to collect patterns to give to the government.
- Need to get other Inuit regional, governmental, and cultural organizations involved.

International concerns:

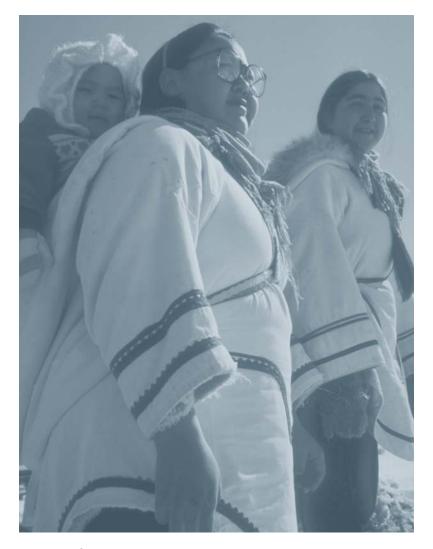
- lnuit live in Canada, USA, Greenland, and in Russia.
- Protecting Inuit property rights must account for the pan-Arctic distribution of the Inuit.
- International organizations should participate in the discussions.

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Support should be sought from the Permanent Forum of Indigenous Issues of the UN, the UN Draft Declaration of Indigenous Peoples Rights, as well as the OAS Declaration of Indigenous Peoples' Rights.

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Trademark infringements:

- § Some Inuit clothing creations incorporate design elements that fringe on protected designs such as Nike and Teletubbie characters.
- Inuit must respect the ownership of these designs and not use them; Inuit are part of the larger world market.

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Workplan The fourth day of the workshop

centred on developing a workplan that reflected the interests and concerns of the delegates. The previous days had raised awareness and provided technical information about existing IPR systems and placed these issues in the context of Inuit values, domestic laws, international debates and initiatives, and in the context of how other Indigenous women were coming to terms with the misappropriation of their cultural heritage. The resulting workplan was conceived in terms of short or immediate objectives and longer term objectives. The specifics are detailed below.

The immediate goal is to take the initiative and to continue to nurture a leadership role. Pauktuutit needs to seek a mandate from its Board of Directors in order to proceed with this project and then to take the results of the workshop to the Association's membership during the forthcoming Annual General Meeting. A working group needs to be formed and a formal communication strategy needs to be developed. A critical component will be to develop working relationships with groups at the local, regional, territorial, national, and international level.

The long-term goals seek to initiate an interim form of protection and then to proceed with a research and consultation

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process that will result in a more substantive Indigenous-specific form of legislative protection in Canada. The latter is especially challenging. The aim is to develop a form of protection that respects the age and collective nature of Indigenous cultural and intellectual property. Protection must go beyond the limitations of existing IP laws.

The interim protection will take the form of a tag or label that can be sewn into the garments. The tag will be a certification mark that identifies the garment as an authentic Inuit-made product. This would be registered with the Canadian Intellectual Property Office. Pauktuutit may act as the administrator or public authority for the label. The authority will act as the association of manufacturers. The workshop delegates clearly stated that they did not want this association to be exclusionary, denying any Inuit from using the tag. The intent is to operate within the existing IPR regime until a more appropriate and culturally relevant form of legal protection can be developed. The label can identify to consumers the source and integrity of the product, but as the delegates learned at the workshop, such trademarks do not protect cultural heritage and traditional knowledge from being appropriated by others.

An important role for the authority will be to develop a collective registry of Inuit cultural property. Community registries are common in India and are part of Panama's *Act 20*. The participants indicated they wanted to document the historical, community, and regional variations of the *amauti*. Issues such as ownership, access, benefit sharing, quality control, and other ethical issues need to be further explored and communicated to

Inuit social and cultural organizations and to the makers of the *amauti*. This consultative process will lend itself to further refining the legislative changes that are ultimately sought.

The workplan's long-term objectives will serve as the basis for this project's second phase. The consultation workshop with the stakeholders was step one. In the months to come, Pauktuutit will develop another proposal based on this workplan and will seek the financial support to proceed.

Immediate Objectives:

- Present outcomes and recommendations to the Pauktuurit Board:
- Take to Pauktuutit AGM for ratification:
- Present outcomes and recommendations to other Inuit organizations and explore more formal partnerships;
- Prepare a national and international communication strategy;
- Publicly put the mark of Inuit ownership on the entire project so no one else tries to do the work;
- Form a working group to guide project;
- Formalize working relationships with:

Nunavut Law Reform Commission;

Nunavut Social Development Council;

Regional Inuit Associations;

Avataq Cultural Institute and other Inuit cultural organizations;

Qulliit (Nunavut's Status of Women Council);

Inuit Tapiriit Kanatami;

Inuit Circumpolar Conference;

Federal, Territorial, & Provincial governments;

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The Indigenous Women of the Americas Coalition;
World Intellectual Property Organization;
Convention on Biological Diversity;
Inuit designers, sewers and clothing producers; and,
Women's groups, throat singers, elders.



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Long-term Objectives:

- Form association of manufacturers or other public authority to seek interim protection and registration of cultural property trademark (within Pauktuutit for now):
- Women's groups, throat singers, elders.
- All Inuit women to be members; and,
- No fee to join or belong.
- Develop mandate, objectives and issues (working group):

Issues to be addressed include:

- wnership;
- © control, access;
- benefit sharing;
- licensing;
- nuality control;
- sustainability;
- membership criteria;
- ethical issues, (i.e. sharing patterns and designs, obligations of individuals to communities, social standards/fair trade practices, etc.); and,
- Identify cultural/intellectual property to be preserved, promoted and protected.

2. Additional Research and Project Development:

- a. Examine Canadian legislation that may be relevant and/or useful and further examine the Panamanian model (Act 20);
- b. Fund a delegation to Panama and develop an information exchange/fact-finding/cultural exchange project;
- Expand the consultation process and develop a meeting schedule:

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- Translation of additional materials into Inuktitut; and,
- Define objectives and elements of new protection;
- d. Inventory/registry of cultural property, designs and innovations of all communities (collective registry); and,
- e. Gather existing research and archival material/on-site visits to Canadian Museum of Civilization, National Archives, other sites.
- 3. Develop new form of Indigenous-specific protection:
- Scope and duration of the protections, etc
- 4. Develop national legislation/amendment to the Trademark Act.
- 5. International links:
- Support for protection from other countries; and,
- [⋄] Links with Inuit internationally.

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Workshop Evaluation A final component of the

workshop was the distribution to participants of a workshop evaluation questionnaire. The intent was to get some measure of how the participants viewed the organization of the workshop, viewed the value of the workshop reading material, and viewed the workshop presentations. A total of 18 completed questionnaires were returned.

Most found the organization of the flights and the accommodations to be good (76 percent of those who responded to the question). About six percent stated the organizing was average. No one claimed it was poor.

The English language version of the workshop material was the most commonly used (about 55 percent of the participants). About 94 percent of those who responded indicated they liked the look and organization of the workshop booklet. Over 80 percent indicated they found it well written and easy to understand. This positive response is encouraging considering that 44 percent of the participants used the Inuktitut material, or both the English and Inuktitut. During preparations for the workshop there was concern that the technical material would not translate well into Inuktitut. These results suggest the material was effectively translated. One respondent commented, however, that the Inuktitut should have been better proof read.

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All the respondents indicated they thought the workshop's presentations were well organized. When asked to rate how effectively they thought the workshop addressed the topic of protecting Inuit women's traditional knowledge, about 55 percent stated it was good. Forty-four percent indicated it was average. No one rated it as poor. With respect to the topics discussed, all the respondents thought they were important. When asked whether the issues and topics discussed would help solve the problems faced by those who make the amauti, 88 percent of those who responded indicated they would be helpful.

The participants were asked if they thought the workshop failed to mention anything important. About 28 percent stated ves; another 11 percent offered no opinion. Participants stated the topics were complex and in some cases needed more elaboration. One stated that the questions discussed in the smaller break-out groups should have been discussed in more detail by the larger forum as well. Significantly, almost 95 percent of the respondents indicated they were planning to share what they learned at the workshop with others. Potential audiences included community women's groups and sewing groups, social and cultural organizations, and other interested persons. Some mentioned public announcements, radio shows, and newsletters. One delegate was going to write a briefing note to the Nunavut Minister responsible for Culture, Language, Elders, and Youth. These responses are encouraging and reflect the effectiveness of the workshop in communicating the IPR issues to the participants.

The workshop evaluation indicates the participants were satisfied with the organization of the sessions and about the

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topics covered. It is recognized that the material is complex and more attention should have been directed towards the translated material. Despite Pauktuutit's best efforts, an Inuinnaqtun version (Western Kitikmeot dialect) was not completed in time for the workshop. Participants were pleased that the initiative had been undertaken and they hoped follow-up consultations would be pursued. As one participant commented:

"... I have a deep belief that the amauti project is culturally and financially important to all Inuit from East, West, and North.... Ideas are like hardy plants. Deep dormancy, many years of no growth, and then one spring you notice new growth. It is the hope you give and I thank you for it. Thank you for letting me experience this."



Conclusion The Amauti and Intellectual

Property Rights Workshop was a successful first step in defining the IPR needs of Inuit women. The workshop resulted in a two-phased plan to develop an effective mechanism that would protect the cultural heritage of all Inuit. It was felt that those who wish to profit from the amauti and to copy them outside of the Inuit social and cultural context need to be managed. Above all, Inuit women want to prevent the exploitation of the *amauti* without their prior informed consent. The delegates were not just interested in protecting their profits, they want to protect and continue the traditions.

The work being done to define the scope of issues and protection has generated significant interest from academics and others interested in doing the same or similar work. This workshop and resulting recommendations confirm the urgent need to ensure Inuit ownership and control of the issues, initiatives, processes and outcomes of this critical area of endeavour.

This work has received support and recognition of all Inuit regions, land claims organizations, national Inuit organizations, cultural institutes and other interested parties and stakeholders. The interest in and need to work collaboratively and in partnership was confirmed by all participants.

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The perceived urgency to address this issue was also immediately confirmed by the participants. Initial round-table opening remarks raised many of the key issues that had been developed over time by Pauktuutit's initial research and in preparation for the workshop. Additionally, unlike other workshops that may



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require time for participants to feel comfortable in openly participating, delegates were eager to begin their substantive discussions.

The workshop also generated a keen interest among several participants in global and hemispheric processes and influences such as the Organization of American States (OAS), the Free Trade Agreement of the Americas (FTAA) and issues related to globalization and its impact on Inuit women and Inuit communities in Canada. Tangible links were made to the need to protect Inuit cultural property, traditional knowledge and intellectual property rights and the CBD, and Pauktuutit was strongly encouraged to continue its work at the international level with organizations such as the United Nations, the World Intellectual Property Organization and others.

In addition to these broader conclusions and recommendations, participants formulated many specific recommendations. The participants concluded that a labelling system could be implemented until a more comprehensive system can be developed. For example, an *amauti* trademark could serve as a fair-trade trademark. As well, an inventory of *amauti* styles, designs, and makers by community, by region, and nationally should be initiated. They felt that there should be a governing body that could manage and control this cultural property in the name of the collective. To ensure the integrity of the designs, it was suggested that licensing may be an option. It was felt that those who profited from the *amauti* have an obligation to their communities and that some benefits should therefore be returned. The lessons learned from the Panamanian example led to the suggestion that five percent of sales should go to an

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Delegates inquired about having Pauktuutit act as an association of manufacturers for the sewers. It was felt that Pauktuutit had already demonstrated a commitment to the issues and that there was little reason to create another association to take it over. It was viewed that other Inuit organizations must also participate and work cooperatively. Pauktuutit already maintains contacts with other Aboriginal organizations and has an international profile. Pauktuutit would probably take on the role as an interim organization and that later, another organization would have to be created for the job.

The issues are complex and the participants raised a number of concerns and issues that must be addressed in detail. Participants recognized that this project was just the first step and that other aspects of Inuit culture will benefit from the work being done. Throat singing, *ulus*, *inukshuks* are a few elements of Inuit culture that are also threatened by misappropriation. The workshop therefore served as a case study for community consultations and can act as a model for other sessions. The materials that were prepared are amenable to other IPR consultations among aboriginal communities.

Appendix

Amauti Workshop Agenda

Inuit Women's Traditional Knowledge Workshop on the Amauti and Intellectual Property Rights

Rankin Inlet, Nunavut - May 24-27, 2001

Day 1 - May 24

Morning

Introduction to the Workshop

Presenters

Tracy O'Hearn Sally Webster

- 1. Background to the workshop
- 2. Objectives of the workshop
- 3. Overview of workshop material
- 4. Review of agenda
- 5. Workshop methodology

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Afternoon

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What is an Amauti?

Facilitator Robbie Watt

Day 2 - May 25

Morning

Inuit Traditional Knowledge
Individual versus Collective Rights

Presenter Tracy O'Hearn Facilitator Tamara Dionne Stout

Afternoon

The Convention on Biological Diversity

Presenters

Tracy O'Hearn

Tamara Dionne Stout

Background to the Convention on Biological Diversity

Ethical Issues

Prior informed consent

Access and benefit sharing

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Day 3 - May 26 ▷ጐ ለ∿しלס' - LΔ 26-Γ Morning D°ż°lσ **Current Intellectual Property Right Laws** Presenter Phillip Bird D5P2PU 8C. >2c Copyright $\Delta_{P}CD_{C}C^{2}$ Trademarks حص۵۶۹۲۰ Industrial designs $4\Gamma^{2}$ 6 1 6 6 6 6 6 6 6 6 Afternoon \mathcal{D} $\mathcal{J}^{\mathcal{C}}$ **International Examples and Experiences** How have Indigenous peoples in other countries tried to የኮሙ ኮሚያል ነው። የሚያለው የሚ protect their traditional knowledge? $2 ት $_{\alpha}$ /ቦላቴ $_{\alpha}$ 0% ቴኦት $_{\alpha}$ 0% ቴኦት $_{\alpha}$ 0% ቴኦት ₯₧₸₼₯ Presenters ¿σ ΗΔ°ςΡ' (ζαLΓDC^{ςь}) Sonia Henríquez (Panama) Graciela Magan (Peru) Γ_{\sim} / Γ_{\sim} / Γ_{\sim} / Γ_{\sim} / Γ_{\sim} / Γ_{\sim} Panama -Legislation Act 20 ΛŻΓ Peru

Draft Contract

WIPO's Fact Finding Mission

WIPO Model Provisions for Protecting Folklore

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Day 4 - May 27

Morning

Review and Discussion

Open forum

Collective Rights

Trademark

Association of Manufacturers

Formal documentation of the amauti and registration of design(s)

Public authority

Afternoon

Action Plan

- 1. How can the *amauti* be protected?
- 2. Should customary laws about issues like access and benefit sharing be defined and documented?
- 3. Should an organization to register intellectual property rights for Inuit be created?
- 4. How should benefits from traditional knowledge be distributed?
- 5. How can the use and marketing of traditional knowledge be authorized?
- 6. Should trademarks, copyrights, and industrial designs be considered to protect intellectual property?

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