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Public Health Regulation on Traditional Healers and Indigenous Medical Practice in Indonesia and South Africa

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ABSTRACT

The traditional healers and indigenous medical professionals continue to be a crucial part of primary healthcare provision and cultural heritage preservation in Indonesia and South Africa. Nonetheless, the juxtaposition of traditional medicine with conventional healthcare has posed substantial public health issues about patient safety, quality control, professionalism, licensing, and regulation. The purpose of this paper is to explore the legal and regulatory framework for traditional healers and indigenous medical practice in Indonesia and South Africa. The goal of the study is to identify the strengths, weaknesses, and best practices for the protection of public health in relation to traditional medicine through the analysis of the regulation of traditional medicine in the two jurisdictions. The methodology of this study includes doctrinal legal research based on the comparative legal method. The comparative legal research is used to analyze constitutional provisions, statutes, rules, case law, and scholarly literature of the two jurisdictions. It has been found that despite the recognition of the significance of traditional medicine in the two countries, South Africa has a more developed statutory regulatory framework, and Indonesia has improved its regulatory framework through public health legislation and administration.

1. INTRODUCTION

The health sector in Indonesia faces high rates of maternal and infant mortality in its rural regions, where 65% of the people have access to clean water. Communicable

diseases such as malaria, tuberculosis, and measles remain important contributors to death in the forests, due to environmental degradation affecting the health of the forest dwellers[1]. In the same manner, South Africa experiences a generalized epidemic of HIV/AIDS that has more than 16% of its adult population affected. It strains families and forest management staff immensely. The two countries also have an unbalanced distribution of professional medical personnel, with rural and poor areas lacking them[2]. It makes it impossible for one-third of the world's population to access biomedical medications regularly, forcing people to depend on traditional means of treatment. Public health problems are additionally exacerbated by the unwillingness of politicians to cater to the needs of ethnic minorities and the growing rates of non-communicable diseases such as high blood pressure and diabetes in growing cities[3].

In Indonesia, the traditional medical approach is highly dependent on various ethnic medical traditions, where roughly 49.8% of people make use of these services. Traditional approaches are classified as either skilled or concoctions-based[4]. The first category includes dukun pijat (massage therapists), bonesetters, traditional dentists, and spiritual shamans, whereas the latter refers mostly to jamu, which are herbal medicines extracted from Indonesia's rich biological diversity. At the same time, in remote places like Siberut or Kalimantan, one can encounter the kerei or medicine man who treats all physical illnesses using a holistic approach including spirituality and respect for ancestors. People tend to move within a pluralistic setting, switching between Posyandu (village clinics) and local traditional doctors depending on convenience and effectiveness. Even in spite of the domination of conventional medicine in urban places, the traditional approach remains alive in all social layers because of its relative safety and lack of side effects, combined with the "back to nature" philosophy.

In South Africa, traditional healers or Traditional Health Practitioners (THPs) are key human resources for health because of the ratio of one doctor per 40,000 people in contrast to one healer for every 500 individuals. This sector is highly diverse and comprises four major categories of THPs - diviners (sangomas), herbalists (inyangas), traditional birth attendants, and traditional surgeons. They are bearers of spiritual and cultural health, using a holistic approach to treat diseases and their supernatural causes (such as anger of ancestors or witchcraft). However, despite the attempts to marginalize this field of practice in the colonial and apartheid periods, today traditional healing is the main health resource for 70-80% of the population of South Africa. Healers are actively involved in combating the HIV/AIDS epidemic, serving as an introduction to healthcare and psychosocial support when biomedical methods are not accessible. The impact on the economy is high because the traditional medicine market generates billions of dollars annually.

[1] Andra le Roux-Kemp, "A Legal Perspective on African Traditional Medicine in South Africa," *Comparative and International Law Journal of Southern Africa* 43, no. 3 (2010): 273–91.

[2] Muhammad Fakih and Candra Perbawati, "Relevance of WHO Traditional Medicine Strategy (2014–2023) with Traditional Health Care Policy in the Perspective of National Law and International Law," *Asian Journal of Legal Studies* 1, no. 1 (2022): 25–34.

[3] Marlise Richter, *Traditional Medicines and Traditional Healers in South Africa* (Cape Town: Treatment Action Campaign and AIDS Law Project, 2003), 4–29.

[4] Engela Pretorius, "Traditional Healers," in *South African Health Review* (Durban: Health Systems Trust, 1999), 249–56.

The process of institutionalizing traditional medicine in Indonesia and South Africa takes place under the regulation of laws, which seek to protect the health and rights of individuals[5]. Recently, in Indonesia, the new Law No. 17 of 2023 (Health Law) and Government Regulation No. 28 of 2024 came into effect, proclaiming traditional health services as an integral part of the national health system. In South Africa, the Traditional Health Practitioners Act 22 of 2007 was introduced to establish the regulatory framework for the registration and practice of THPs[6]. Nevertheless, there is a problem related to the absence of clarity about accountability and protection of the rights of the patients. Traditional medicine suffers from marginalization due to the predominance of biomedical paradigms, which require reliable scientific evidence and clinical trials, which do not usually take place in the context of indigenous knowledge[7]. Consequently, there appears to be inconsistency in the regulation and unclear rules about compensating patients' injuries. Besides, the lack of standard procedures and supervision in the field of traditional medicine leads to the existence of "hidden suffering," when patients are exposed to the risk of unlicensed practices and deceptive advertising[8].

The innovative nature of the subject "Public Health Regulation on Traditional Healers and Indigenous Medical Practice in Indonesia and South Africa" consists in the comparative analysis of the adaptation of traditional norms to new laws in the context of globalization[9]. This subject is not limited to medical considerations, but also includes theories of justice, for example, the theory of John Rawls concerning the principle of fairness, which should be taken into account to provide legal protection and quality assurance to marginalized users of traditional medicine[10]. The purpose of this research is the assessment of the relevance of the WHO strategy of traditional medicine in relation to compliance of national policies with the standards of safety and effectiveness and responsibility [11]. It will help to determine how the implementation of traditional medicine can be used as a part of biomedicine in order to cover the population of the countries under consideration and reduce negative consequences of diseases.

2. METHOD

This study uses the doctrinal legal research method, whereby a comparative research method is used to analyze the legal regimes concerning traditional healers and indigenous healing in Indonesia and South Africa.

[5] Nimas Prita Rahajeningtyas Kusuma Wardani, Insani Fitrahulil Jannah, and Deif Tunggal, "An Ethnographic Study on Traditional Healing Practices and Their Influence on Medical Treatment Adherence," *Golden Ratio of Data in Summary* 5, no. 3 (2025): 44–55.

[6] Cynthia Fowler, "National Public Health Initiatives That Integrate Traditional Medicine," in *Human Health and Forests* (London: Routledge, 2012), 295–315.

[7] Karl Peltzer and Supa Pengpid, "Traditional Health Practitioners in Indonesia: Their Profile, Practice and Treatment Characteristics," *Complementary Medicine Research* 26, no. 2 (2019): 93–100.

[8] Ibid

[9] Ibid

[10] Raden Maya Febriyanti et al., "Knowledge, Attitude, and Utilization of Traditional Medicine within the Plural Medical System in West Java, Indonesia," *BMC Complementary Medicine and Therapies* 24, no. 1 (2024): 64.

[11] World Health Organization, *Legal Status of Traditional Medicine and Complementary/Alternative Medicine: A Worldwide Review* (Geneva: World Health Organization, 2001).

Research Approach: The analysis, interpretation, and comparison of the laws and legal rules governing public health care and indigenous medicine.

Data Collection Instruments: Documentary Evidence; primary legal documents such as the constitutions, statutes, regulations, judgments, government gazettes, and policies were sourced from government websites, legal databases, and institutions. Secondary Legal Documents such as books, journals, legal commentaries, theses, and reports by reputable international organizations were obtained from the university library and reliable electronic databases.

Validity and Reliability: The validity and reliability of these tools were guaranteed through using only reliable, credible, up-to-date, and peer-reviewed sources while comparing legal information from various references.

Data Collection Procedure: included identification, selection, classification, and organization of appropriate legal materials based on thematic issues.

Data Analysis: was conducted with the help of qualitative doctrinal methods such as statutory interpretation, comparative law analysis, and thematic analysis**.**

3. RESULTS AND DISCUSSION

3.1. Legal Theories on Regulating Traditional Healers and Indigenous Medical Practice

The regulation of traditional healers and indigenous medical practice needs a good theoretical foundation[12], taking into consideration aspects of public health safety, appreciation of cultural values[13], and promotion of human rights[14]. Legal theories offer the philosophical and jurisprudential base on which laws concerning the health care system and professionals, including indigenous medicine, are formulated[15]. It is through the legal regulation in Indonesia and South Africa that it becomes necessary not only to safeguard against any dangerous practices but also to conserve the indigenous healing practices that have continued to benefit millions of people for several centuries[16]. While both countries see the importance of indigenous medicine as part of their healthcare provision, the two differ concerning the level and approach of legal regulation[17]. The legal theories most applicable in giving reasons for the regulation of traditional healers and practice include Public Interest Theory[18], Legal Pluralism Theory, and Human Rights Theory.

[12] Supa Pengpid and Karl Peltzer, "Utilization of Traditional and Complementary Medicine in Indonesia: Results of a National Survey in 2014–15," *Complementary Therapies in Clinical Practice* 33 (2018): 156–63

[13] Ibid

[14] Tengku Keizerina Devi Azwar and Princess Alyssa D. Tee-Anastacio, "Assessing Traditional Medicine, Health Law, and Globalization in Indonesia: Toward Accountability and Safeguards," *Kanun: Jurnal Ilmu Hukum* 27, no. 3 (2025): 613–34.

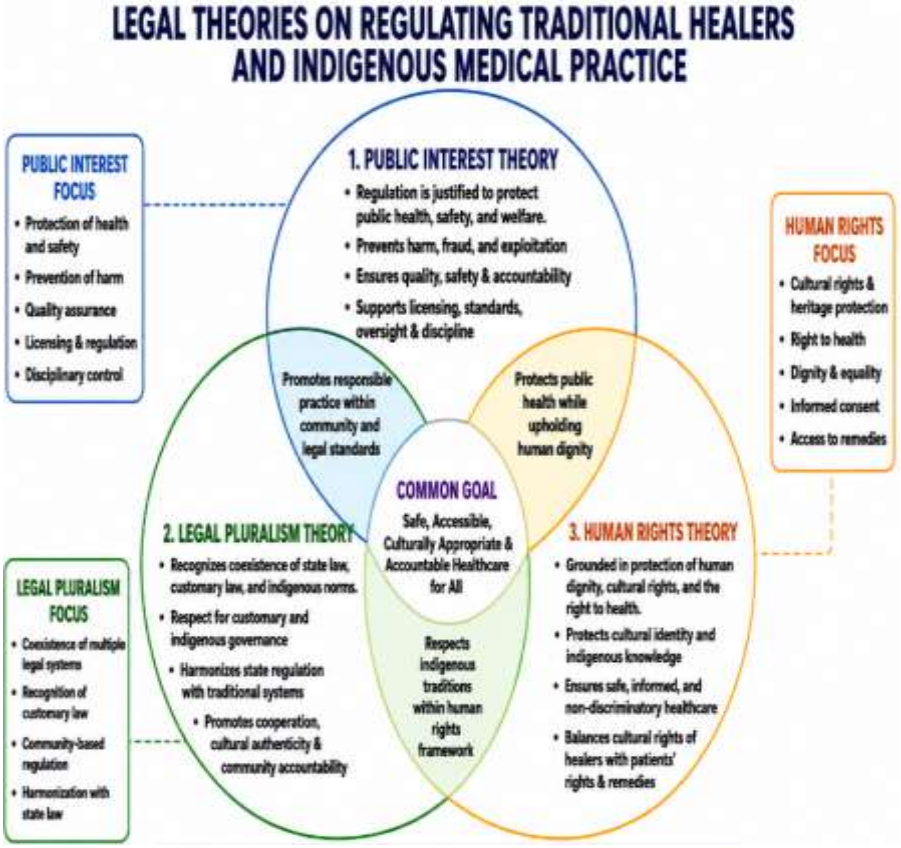
[15] Ni Luh Gede Yogi Arthani, Putu Sekarwangi Saraswati, and Made Emy Andayani Citra, "Religious-Ethical Perspectives on Traditional Health Law: Toward Culturally Sensitive Regulation," *Contrarius Series: Law & Social Justice* 1, no. 2 (2026): 1–11.

[16] Hans Pols, "European Physicians and Botanists, Indigenous Herbal Medicine in the Dutch East Indies, and Colonial Networks of Mediation," *East Asian Science, Technology and Society: An International Journal* 3, no. 2 (2009): 173–208.

[17] Dwi L. Suswardany et al., "A Critical Review of Traditional Medicine and Traditional Healer Use for Malaria and among People in Malaria-Endemic Areas: Contemporary Research in Low- to Middle-Income Asia," *Malaria Journal* 14, no. 1 (2015): 98.

[18] Ibid

Figure 1: Theoretical framework



Source: Design by authors based on data obtained

The Public Interest Theory holds that whenever there is a need to protect the public from certain risks, regulation is necessary[19]. The Public Interest Theory asserts that the ultimate purpose of regulation is the protection of the public interest in welfare, safety, protection from exploitation, and equal access to necessities. In the case of health care, Public Interest Theory provides the most solid legal rationale for regulating traditional healers, since the practice affects the lives, health, and safety of individuals [20]. Traditional medicine, herbal treatment, spiritual therapy, and indigenous therapy can be beneficial to patients; however, unregulated use of traditional healers may also subject patients to danger. Therefore, governments have developed regulation policies and laws aimed at controlling the activities of traditional medicine practitioners in order to guarantee professionalism and safety of their activities[21]. For example, Public Interest Theory is the foundation of legislation that provides statutory regulation of the activities of traditional health practitioners through registration, professional standards, and disciplinary mechanisms in South Africa[22]. In addition, Indonesia has legislated the regulation of traditional health

[19] Sri Mumpuni Yuniarsih et al., "Exploring the Acceptability of Traditional Medicine Clinic Implementation in Indonesian Public Health Centers," *Nurse Media Journal of Nursing* 15, no. 1 (2025): 85–97.
[20] Kevin Dew and Supuni Liyanagunawardena, "Traditional Medicine and Global Public Health," in *Handbook of Social Sciences and Global Public Health* (Cham: Springer, 2023), 221–37.
[21] Ibid.
[22] Joy Summerton, "The Incorporation of African Traditional Health Practitioners into the South African Health Care System," *Acta Academica* 38, no. 1 (2006): 143–69.

services by using health legislation regulating indigenous medical practices by providing requirements for competency and governmental control.

Legal Pluralism Theory acknowledges the possibility of several legal systems existing concurrently in one society[23]. Contrary to the perception that only state laws can provide legal authority, the theory respects the validity of customary laws, religious laws, indigenous norms and other forms of legal systems. The application of Legal Pluralism theory in the regulation of traditional healers is appropriate because indigenous medicine practices are usually developed independently from the state and are therefore governed by customary laws, cultural values and ancestral wisdom[24]. In Indonesia and South Africa, the practice of indigenous healers continues to be highly regulated through customary laws within the respective communities. Therefore, the theory encourages the integration of indigenous governance in the statutory regulation of traditional healers rather than completely westernizing the legal system to create a statutory regulation[25]. South Africa provides the best example of the application of legal pluralism in that customary laws are recognized in the constitution and at the same time the traditional health practitioners are regulated by statutory laws [26]. In Indonesia, customary communities (*masyarakat adat*) are recognized alongside their indigenous healthcare within the national health system and government regulation. Legal Pluralism thus provides a balanced framework that protects indigenous legal traditions without compromising public safety or legal accountability.

Human Rights Theory offers a framework for the regulation of traditional healers based on the rights-based approach, where human dignity, equality, culture, and the right to the highest attainable standard of health are important [27]. According to international human rights laws, indigenous peoples have the right to maintain their cultural heritage, traditional knowledge and practices, which include traditional medicine. On the other hand, the state has a duty to protect people against unhealthy healthcare services, discrimination, exploitation and abuses of patients' rights [28]. Therefore, in regulating traditional healers, there should be consideration of two complementary goals: protecting the cultural rights of traditional healers and ensuring that patients' rights are protected against any form of harm to their health. The Constitution of Indonesia protects cultural diversity, which includes the recognition of indigenous communities, while public health laws ensure that patients are protected from unhealthy treatments [29]. In South Africa, the Constitution guarantees cultural rights, human dignity, equality and healthcare access, while the

[23] Bethany Green and Erminia Colucci, "Traditional Healers' and Biomedical Practitioners' Perceptions of Collaborative Mental Healthcare in Low- and Middle-Income Countries: A Systematic Review," *Transcultural Psychiatry* 57, no. 1 (2020): 94–107.
[24] Unnikrishnan Payyappallimana, "Role of Traditional Medicine in Primary Health Care," *Yokohama Journal of Social Sciences* 14, no. 6 (2010): 57–75.
[25] Ibid
[26] Ibid
[27] Unine Alexia Annastasia Felix, *Paving a Way to Effectively Regulate African Traditional Medicines in South Africa* (LLM diss., University of the Western Cape, 2017).
[28] World Health Organization, *WHO Global Report on Traditional and Complementary Medicine 2019* (Geneva: World Health Organization, 2019).
[29] Ibid

Traditional Health Practitioners Act regulates the practitioners. This is why Human Rights Theory rejects the unregulated practice and also the overbearing interference of the government. The ideal Human Rights Theory calls for a regulation that upholds the native tradition of medicine yet takes into consideration the aspect of transparency, the need for consent of the person, professionalism, non-discrimination, and a system where the rights of the patient can be redressed.

3.2. Conceptual Discussion: Traditional Healers and Indigenous Medical Practice in Indonesia and South Africa

Traditional Medicine (TM), on the conceptual level, is a multi-faceted approach that is based on the indigenous culture, rituals, and spiritual knowledge. In the case of Indonesia, TM comprises two major groups of services, which include skills-based and concoction-based services, including Jamu[30]. Around 49.8% of the Indonesian population makes use of the services in order to maintain their health status and treat chronic illnesses. At the same time, South African TM differentiates between sangomas, who serve as diagnosticians and diviners, and inyangas, who are herbalists. Studies show that between 70 and 80% of the South African population uses traditional health practitioners (THPs) for treatment purposes[31]. Conceptually speaking, TM can be viewed as "medical pluralism" - an arrangement in which different healing systems coexist to meet the requirements of the population. While allopathic medicine is based on "material causation", TM emphasises the importance of a holistic approach in which the health status of one's physical, mental and spiritual well-being is taken into account[32].

The socioeconomic aspect of traditional medicine highlights the significance of the practice as an important source of human health in poor areas. In South Africa, the practitioner-to-population ratio is an outstanding one in favor of TM at 1:500, whereas for biomedicine doctors, it stands at 1:40,000. On economic grounds, the business generated through traditional medicine is valued at R2.9 billion per year and constitutes 5.6% of the national health budget in South Africa, while employing more than 133,000 individuals in rural South Africa[33]. Similar trends can be observed in Indonesia; here, a total number of 281,492 practitioners had been registered as of 1995, among which 122,944 practitioners were traditional birth attendants. Public interest has grown in Indonesia, as 32.5% of Indonesians have claimed the use of traditional health services[34]. The use of TM in such cases is generally a practical measure in case fragmented health systems make conventional treatment inaccessible or unaffordable.

[30]Julia Zenker, *The Modernisation of Traditional Healing in South Africa: Healers, Biomedicine and the State* (PhD diss., Martin Luther University Halle-Wittenberg, 2011).

[31] Saikat Sen and Raja Chakraborty, "Revival, Modernization and Integration of Indian Traditional Herbal Medicine in Clinical Practice: Importance, Challenges and Future," *Journal of Traditional and Complementary Medicine* 7, no. 2 (2017): 234–44.

[32] Sejabaledi Agnes Rankoana, *The Use of Indigenous Knowledge for Primary Health Care among the Northern Sotho in the Limpopo Province* (Master's thesis, University of Limpopo, 2012).

[33] Nuning Rahmawati et al., "Ethnomedical Uses of *Cananga odorata* (Lam.) Hook. f. and Thomson in Indigenous Traditional Medicine among Indonesia Ethnic Groups," *Journal of Applied Pharmaceutical Science* 14, no. 9 (2024): 128–37.

[34] Ibid

It becomes a financial necessity for TM users, who pay for the services without any insurance coverage[35].

In times of public health emergencies and pandemics, traditional healers become an indispensable part of the frontline responders and social intermediaries. Specifically, in terms of the HIV/AIDS pandemic in sub-Saharan Africa, healers are the first point of contact for 80% of mental health and HIV service users[36]. Moreover, they play an important role in counseling and offering psychological and social support, which is very important for patients to be compliant with the prescribed treatment. During the recent COVID-19 pandemic, there was a growth of interest in herbal remedies such as red ginger and turmeric to keep the immune system healthy[37]. In Madagascar, the government officially supported "Covid Organics", a plant-based remedy offered to the African nations. Nevertheless, the lack of clinical trials makes people sceptical about the so-called miracle cures that emerge in times of panic[38]. Pandemics emphasize the concept of "gatekeeper" since they can facilitate or prevent access to biomedical services depending on their interpretation of the disease.

The regulatory environment for traditional medicine practices is moving towards institutionalization and state regulation. South Africa enacted the Traditional Health Practitioners Act (22 of 2007) to provide an Interim THP Council to monitor the registration and professional activities of healers[39]. Yet, the exact roles of THPs in conventional medical practice have not been sufficiently defined a decade since the enactment of the Act. Indonesia enacted Law Number 17 of 2023 (Health Law) and Government Regulation Number 28 of 2024, which emphasize the need to nurture and regulate traditional health practices through the government. Both countries are facing "legal uncertainty" concerning the liability of practitioners and the protection of patients' rights[40]. The main problem here is in the "epistemological gap" between biomedical practices and indigenous medical knowledge. Regulations are finding difficulties in standardizing informal, non-scientific traditions that have been in place for generations. Thus, affirmative actions and specific regulations should be adopted to regulate liability for medical malpractice[41].

WHO's "Traditional Medicine Strategy 2014-2023" serves as a model for integrating safely and effectively traditional approaches within countries' national health systems. The objectives include development of evidence-based knowledge, improvement of quality assurance mechanisms and promotion of universal health care coverage using a strategy based on regulation of practitioners, products, and

[35] Mpoe Johannah Keikelame and Leslie Swartz, "'A Thing Full of Stories': Traditional Healers' Explanations of Epilepsy and Perspectives on Collaboration with Biomedical Health Care in Cape Town," *Transcultural Psychiatry* 52, no. 5 (2015): 659–80.

[36] C. N. Fokunang et al., "Traditional Medicine: Past, Present and Future Research and Development Prospects and Integration in the National Health System of Cameroon," *African Journal of Traditional, Complementary and Alternative Medicines* 8, no. 3 (2011): 284–95.

[37] Ibid

[38] Ibid

[39] Omoleke Ishaq Isola, "The 'Relevance' of the African Traditional Medicine (Alternative Medicine) to Health Care Delivery System in Nigeria," *The Journal of Developing Areas* 47, no. 1 (2013): 319–38.

[40] Aviwe Belani, Kelechi Elizabeth Oladimeji, and Francis Leonard Hyera, "Comparative Views of Health Professionals and Traditional Healers on the Trado-Medical Uses of *Impepho* Leaf (*Helichrysum odoratissimum*) from Eastern Cape and KwaZulu-Natal," *Journal of Ecohumanism* 4, no. 4 (2025): 1679–89.

[41] Ibid

practices, the "tripod"[42]. In Indonesia, the government has created P3T centers in 11 provinces, which undertake research and trials for traditional approaches. The shift in policies of South Africa is towards the creation of a sui generis system that will put African traditional medicine on par with conventional healthcare systems, and not just incorporate it into the latter[43]. The key areas of focus for the future include the introduction of a "task-sharing" approach, whereby healer-nurse liaison officers work together to reduce treatment default among people suffering from chronic diseases such as TB. The sustainability of this process lies in bridging the cognitive gap by educating each other and documenting traditional formulations in the country's pharmacopoeia.

3.3. Regulating Traditional Healers and Indigenous Medical Practice in Indonesia and South Africa

Indeed, both countries have set up appropriate mechanisms for incorporating traditional medicine from an unregulated cultural practice to become part of the country's health system. In the case of Indonesia, the legal basis is the Undang-Undang Nomor 17 Tahun 2023 (Health Law)[44]. According to this law, traditional health services mean the treatments that are passed down from generation to generation and are empirically accountable[45]. The same case applies to South Africa, where the mechanism is found under the National Health Act 61 of 2003[46]. Here, the recognition is made about the people's right to access health care and the state's responsibility in the protection of the vulnerable[47]. The two countries view their traditional knowledge as a valuable national resource, but there is some difference in the reasons behind it. Indonesia protects its citizens from the products that lack safety, efficacy, and quality standards. On the other hand, the Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019[48], South Africa seeks to provide for historical reparation by freeing the people from oppressive colonial limitations on their indigenous knowledge[49].

It is important to note that the Indonesian regulatory framework as stipulated by Government Regulation (PP) No. 103 of 2014[50] has come up with a unique three-level categorization, namely, Empirical, Complementary, and Integrated Traditional Health Services. For one, empirical services depend on evidence of safety from generations of usage, but complementary services have to employ biomedical and

[42] Andrian Liem, "'Doing My Profession Is Also Part of Worship': How Clinical Psychologists Address Aspects of Spirituality and Religion in Indonesia," *Journal of Religion and Health* 59, no. 3 (2020): 1434–57.
[43] Ibid
[44] Undang-Undang Nomor 17 Tahun 2023 (Health Law)
[45] Willy Kibet Chebii, John Kaunga Muthee, and Karatu Kiemo, "The Governance of Traditional Medicine and Herbal Remedies in the Selected Local Markets of Western Kenya," *Journal of Ethnobiology and Ethnomedicine* 16, no. 1 (2020): 39.
[46] National Health Act 61 of 2003
[47] Anam Nyembezi, Sekgameetse Ngcobo, and Uta Lehmann, "Collaboration between Traditional Health Practitioners and Biomedical Health Practitioners: Scoping Review," *African Journal of Primary Health Care & Family Medicine* 16, no. 1 (2024): 1–11.
[48] the Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019
[49] Ibid
[50] Government Regulation (PP) No. 103 of 2014

biocultural sciences to prove their scientific validity[51]. It can be seen from the above that the "Integrated" type stands out as the highest level of integration since it entails the use of both conventional and traditional medical services in hospitals, often under the supervision of a medical committee. Such a system hints at the existence of an important hierarchy whereby traditional medical practices become increasingly "medicalized" with increasing proximity to the centre [52]. Although such an arrangement ensures "synergy" between conventional and indigenous medicine, there is the danger of subordinating the latter to the former. Traditional healers (Penyehat) are confined to their specific areas of specialization and, when unable to cope with a situation, are compelled to refer cases to formal medicine[53].

Professionalisation is the key feature of the South African Traditional Health Practitioners Act 22 of 2007[54] through the establishment of the Interim Traditional Health Practitioners Council. The council controls the registration and training of different categories such as diviners, herbalists, traditional birth attendants, and traditional surgeons[55]. Contrary to the Indonesian example where much emphasis is placed on whether the service provided is potion or skills, South Africa has developed the law that places more emphasis on the professional behavior of the traditional health practitioner. In South Africa, "Unprofessional conduct means an act disgraceful to the profession" in effect developing the code of ethics for the traditional healer just like that of modern medicine doctors[56]. Most importantly, the law of South Africa does not allow any person to practice unless registered; hence making registration a mandatory requirement of the law. In addition to ensuring that the healers are "suitably qualified," it also becomes difficult for rural practitioners to be registered due to the bureaucratic process involved in the Council[57].

A point of major distinction is the protection of indigenous intellectual property and its commercialization. While South Africa's Indigenous Knowledge (IK) Act of 2019[58] provides for a high level of protection of indigenous intellectual property, Indonesia's legal framework tends to focus on the industrialization of traditional medicines and "Good Manufacturing Practices" (GMP). South Africa's IK Act establishes the office of the National Indigenous Knowledge Systems Office (NIKSO) for protecting the rights of indigenous peoples[59]. Under the Act, it is mandatory to obtain prior informed consent and benefit-sharing agreement from indigenous communities before any third party uses indigenous knowledge for commercial purposes. It is considered a communal property of recognized trustees. In comparison

[51] Gareth Nortje et al., "Effectiveness of Traditional Healers in Treating Mental Disorders: A Systematic Review," *The Lancet Psychiatry* 3, no. 2 (2016): 154–70.
[52] Charles Anyinam, "Ecology and Ethnomedicine: Exploring Links between Current Environmental Crisis and Indigenous Medical Practices," *Social Science & Medicine* 40, no. 3 (1995): 321–29.
[53] Jae Kyoun Kim et al., "Utilization of Traditional Medicine in Primary Health Care in Low- and Middle-Income Countries: A Systematic Review," *Health Policy and Planning* 35, no. 8 (2020): 1070–83.
[54] South African Traditional Health Practitioners Act 22 of 2007
[55] Hans Pols, "The Development of Psychiatry in Indonesia: From Colonial to Modern Times," *International Review of Psychiatry* 18, no. 4 (2006): 363–70.
[56] Gerard Bodeker and Chi-Keong Ong, *WHO Global Atlas of Traditional, Complementary and Alternative Medicine* (Geneva: World Health Organization, 2005).
[57] Ibid
[58] South Africa's Indigenous Knowledge (IK) Act of 2019
[59] Ibid

to the above, the Indonesian law, as seen from Regulation 14 of 2021, focuses on the competitiveness of traditional medicine industries, especially micro-enterprises (UMOT). While Indonesia protects the quality and safety of the final product, South Africa's legislation tends to focus on the ownership of indigenous knowledge[60].

There seems to be an underlying conflict between academic requirements and indigenous experiences in the licensing and competency requirements of both nations. Indonesia requires a Surat Terdaftar Penyehat Tradisional (STPT) from empirical practitioners, while traditional health practitioners are required to have a diploma and an STRTKT (Registration Certificate). It is interesting to note that in Indonesia there is recognition of skills gained through " experience-based " training, which means that one must undergo at least five years of training with an experienced healer (aguron-guron). There appears to be an avenue by which an uneducated person can be made legal through such requirements[61]. South Africa also recognizes "prior learning," meaning that assessors will check for qualifications by seeing whether the practitioner holds indigenous expertise and skills. South Africa is quite punitive towards the unregistered, and one can even face fines or imprisonment for practising without being registered. Indonesia, like South Africa, imposes administrative penalties by revoking the permit (SIPTKT) of the practitioner for failing to comply with ethical practices.

Lastly, it is imperative that the notion of legal pluralism plays an important part in analyzing these frameworks. One of the best examples of "progressive law" is Indonesia's Bali Governor Regulation No. 55 of 2019 that includes national health standards and "Krama Bali" as local wisdom[62]. This particular local regulation states that religious and customary norms are the base of traditional medicine and "lontar usada" (sacred texts) are legitimate clinical documents. Therefore, this case proves the idea of "state legal pluralism", where "the recognition by the state of multiple legal systems: state law, folk law, and religious law." Furthermore, the Dispute Resolution Committee of South Africa includes "customary laws" in the process of solving problems according to the IK Act. However, the main critique is that this legal pluralism tends to be "semi-autonomous" as the validity of these systems depends on whether they meet the standards of the state[63]. Overall, despite the fact that both countries have managed to validate traditional medicine through their laws, they have served the incorporation of these old traditions into state regulations.

Table 1: Comparism of Indonesia and South Africa Laws

Regulatory Aspect	Indonesia Framework	South Africa Framework
Primary Legislation	Health Law 17/2023; Government Regulation (PP) 103/2014.	National Health Act 61/2003; Traditional Health Practitioners Act 22/2007.

[60] George M. Foster, "Medical Anthropology and International Health Planning," *Social Science & Medicine* 11, no. 10 (1977): 527–34.

[61] Charles M. Good, John M. Hunter, Selig H. Katz, and Sydney S. Katz, "The Interface of Dual Systems of Health Care in the Developing World: Toward Health Policy Initiatives in Africa," *Social Science & Medicine. Part D: Medical Geography* 13, no. 3 (1979): 141–54.

[62] Ibid

[63] Ibid

Practitioner Categories	Healers (Penyehat) for Empirical; Traditional Health Workers for Complementary.	Diviners, herbalists, traditional birth attendants, and traditional surgeons.
Licensing Requirements	STPT for healers; STRTKT and SIPTKT for traditional health workers.	Mandatory registration with the Interim Traditional Health Practitioners Council.
Industry Standards	GMP (CPOTB) certification required for traditional medicine enterprises (IOT, UKOT, UMOT).	Focus on commercial utilization via NIKSO and mandatory license agreements.
Indigenous Protections	State legal pluralism; integrates religious and customary norms (e.g., Bali's Krama Bali).	Prior informed consent and benefit-sharing agreements for indigenous knowledge.

3.4. Gaps in Legal Framework

The problem that exists in both countries is the biomedical hegemony built into the integration strategies that produce a normative gap. Government Regulation (PP) No. 103 of 2014 of Indonesia stipulates that complementary services should use "biomedical and biocultural science" for scientific evidence. Moreover, integrated traditional health services in hospitals should be monitored by a medical committee[64]. It implies that indigenous knowledge is legally valid only if it fits into Western clinical standards. Likewise, the Traditional Health Practitioners Act 22 of 2007 of South Africa sets up a central Council for regulating professional conduct[65]. The problem of the normative gap consists in the "medicalisation" of traditional healing; by making ancestral practices conform to bureaucratic and clinical standards, the law threatens to strip away the spirituality of indigenous medicine. When state-sponsored "science" is made the main criterion of legitimacy, the distinct metaphysics of traditional philosophy is neglected[66]. Thus, traditional healers become legally legitimate but professionally subordinate to medical doctors who do not necessarily have the expertise in indigenous medicine.

In the case of Indonesia, there exists a very specific referral disparity that implies a unidirectional integration paradigm[67]. The law stipulates the obligation of a traditional healer (*Penyehat*) to transfer his patient to medical institutions in the case where the healer could not cure him. However, the current legislation does not provide for any reciprocal obligation of medical practitioners to refer patients to traditional healers in cases of exhaustion of conventional treatment or when the use of traditional medicine would provide better results[68]. Such one-sidedness stems from

[64] Carol J. Pierce Colfer, ed., *Human Health and Forests: A Global Overview of Issues, Practice and Policy* (London: Routledge, 2012).
[65] Yu Lee Park and Rachel Canaway, "Integrating Traditional and Complementary Medicine with National Healthcare Systems for Universal Health Coverage in Asia and the Western Pacific," *Health Systems & Reform* 5, no. 1 (2019): 24–31.
[66] Bhushan Patwardhan, *Traditional Medicine: A Novel Approach for Available, Accessible and Affordable Health Care* (Geneva: World Health Organization, 2005).
[67] Ibid
[68] Ibid

the state's attempt to protect its people through biosecurity instead of promoting a horizontal partnership between two medical systems. In South Africa, the situation described in the previous paragraph is also true even though the National Health Act 61 of 2003 tries to bring all components of the healthcare system together[69]. Here, the gap is related to the lack of a set of norms for interprofessional cooperation.

There is a normative gap concerning the accessibility of bureaucracy for rural healers. According to South African law, no one is allowed to work as a traditional healer without being registered with the Council; although this protects their clients' safety and the practitioners are "suitably qualified," it creates a great burden for registration procedures that include paying fees and getting an annual certificate[70]. Such bureaucracy can alienate rural healers who work within illiterate lineages. Practising illegally is a crime that renders traditional custodians marginalized due to the inability to utilise state bureaucratic mechanisms. Indonesia tries to fill this gap using aguron-guron or apprenticeship[71]; however, the healers still have to get a Surat Terdaftar Penyehat Tradisional (STPT). The problem with the law is that standardization by the state creates a "shadow market" of practitioners. Criminalising all who are out of reach of bureaucracy does not protect the most vulnerable indigenous people because they depend on illegal healers within their custom.

The protection of IIP vis-à-vis industrialization shows some differences in priorities regarding law. The Indigenous Knowledge Act passed in South Africa in 2019 is a very stringent policy, necessitating the need for prior informed consent and benefit-sharing in the use of any indigenous knowledge for commercial purposes[72]. It views indigenous wisdom as communal property owned by trustees. On the other hand, the Indonesian Regulation 14 of 2021 focuses more on the industrialization of traditional medicine, emphasizing good manufacturing practices (GMP). Indonesia allows micro-enterprise (UMOT) but has no provision to protect the "source" knowledge from which the products come[73]. Should a big industry make use of a community recipe, Indonesian regulation emphasizes product quality, not communal property rights. There arises an element of biopiracy where industrial standard products are protected while the indigenous community that came up with the knowledge has no national framework of benefit sharing like South Africa's NIKSO.

The idea of state legal pluralism is still “semi-autonomous,” hence leaving jurisdictional conflict resolution to be incomplete[74]. Bali Governor Regulation No. 55 of 2019 combines religious and customary laws in the form of the basis for the traditional medicine practice. Nonetheless, this local legal pluralism is legitimate only

[69] World Health Organization, *Pharmacovigilance and Traditional and Complementary Medicine in South-East Asia: A Situation Review* (New Delhi: World Health Organization Regional Office for South-East Asia, 2019).
[70] Alemayehu Molla Wollie et al., “Health Professionals’ Attitudes Towards Traditional Healing for Mental Illness: A Systematic Review,” *International Journal of Mental Health Nursing* 34, no. 2 (2025): e70043.
[71] Hoosen Coovadia et al., “The Health and Health System of South Africa: Historical Roots of Current Public Health Challenges,” *The Lancet* 374, no. 9692 (2009): 817–34.
[72] World Health Organization, *WHO Global Traditional Medicine Centre: Annual Report 2025* (Geneva: World Health Organization, 2026).
[73] Fatai Oladunni Balogun and Anofi Omotayo Tom Ashafa, “A Review of Plants Used in South African Traditional Medicine for the Management and Treatment of Hypertension,” *Planta Medica* 85, no. 4 (2019): 312–34.
[74] Abukari Kwame, “Integrating Traditional Medicine and Healing into the Ghanaian Mainstream Health System: Voices from Within,” *Qualitative Health Research* 31, no. 10 (2021): 1847–60.

if it does not contradict the national health laws. The problem emerges where customary texts, such as Lontar Usada, recommend treatment practices that are considered to be "invasive" or "prohibited" according to the state[75]. The South African Dispute Resolution Committee must "consider customary laws," yet their resolutions are appealable in High Courts following the common law tradition. Hence, the normative gap is the absence of any "bridge" for harmonizing ancestral legitimacy with biomedical safety[76]. In cases where customary practice clashes with biomedical safety according to the state, the state legal process always dominates and ignores the aim of progressive law of attaining "human well-being through local knowledge."

4. CONCLUSION AND RECOMMENDATION

Legal systems of Indonesia and South Africa mark an important historical transition from the marginalization of indigenous practices under colonial rule to state recognition. However, these two countries suffer from a model of "vertical integration," which places traditional knowledge below the biomedical criteria of expertise and bureaucratic regulations. The preoccupation of Indonesia with industrial manufacturing competitiveness and professional registration in South Africa legitimize these practices but at the expense of sovereignty and respect for ancestral ways. In terms of normative deficiencies, it is suggested that both nations move towards Horizontal Legal Pluralism. This would involve the introduction of the obligation of reciprocal referral, which means that conventional physicians will be obliged by law to recognize and use traditional medicine where appropriate. Moreover, Indonesia should follow the example of South Africa in its implementation of strict protocols of benefit-sharing and "prior informed consent" in order to prevent commercial appropriation of communal knowledge. On the contrary, South Africa could learn from Indonesia how to recognize experience-based apprenticeships (*aguron-guron*). In general, it is necessary to defend traditional medicine from being recognized just as a "product" or "profession."

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[75] Chidi Oguamanam, *International Law and Indigenous Knowledge: Intellectual Property, Plant Biodiversity, and Traditional Medicine* (Toronto: University of Toronto Press, 2006).

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