A review of national and international legal frameworks and case studies which successfully integrate traditional practices, including traditional healing, into environmental law

Report prepared as part of the Voices of Indigenous Communities on Environmental Sustainability (VOICES) project, funded by the Illegal Wildlife Trade Challenge Fund (IWTCF)

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Glossary of terms	
Customary use	The customs and usages traditionally observed among indigenous peoples and which form part of the culture of those peoples.
Muthi	Colloquial term referring to African traditional medicine and remedies in Southern Africa. It encompasses a wide range of substances – primarily plants, animal parts and minerals – used to address physical, spiritual, and social ailments.
Pharmacopoeia	An official publication containing a list of medicinal drugs with their effects and directions for their use.
Traditional healing	Holistic health practices, knowledge, and beliefs incorporating plant, animal, and mineral-based medicines, spiritual therapies, and manual techniques used to treat, diagnose, and prevent illnesses.
Traditional healer / traditional health practitioner	Indigenous practitioners who provide holistic health care—treating physical, emotional, and spiritual illnesses through ancestral guidance, nature-based remedies, and rituals.
Zootherapy	The use of substances derived from animals for traditional healing, and the use of living animals in therapeutic settings to improve physical or mental health.

1 Executive Summary

This report provides an overview of the Endangered Wildlife Trust's (EWT) Voices of Indigenous Communities on Environmental Sustainability (VOICES) project, followed by a literature review of national and international laws and case studies on decolonised legal frameworks which integrate traditional knowledge systems and conservation practices into environmental law.

EWT's VOICES Project aims to redress the historical exclusion of traditional healers and indigenous knowledge by co-producing recommendations with traditional healers on embedding indigenous epistemologies within biodiversity and health governance frameworks, while also addressing unsustainable biodiversity use.

Colonial legal legacies excluded indigenous knowledge, creating a gap where formal conservation efforts operate in conflict with traditional medicine practices, including those relying on wild fauna and flora. This exclusion is a barrier to combating the illegal wildlife trade (IWT) and promoting sustainable use.

The VOICES project aims to redress this exclusion by co-producing knowledge with traditional healers. The core objectives are two-pronged: 1) to build a robust evidence base on the current use and sustainability of wild species within traditional healing, and 2) to identify concrete opportunities to integrate these practices into existing legal and health governance frameworks, where they are deemed sustainable. By facilitating this integration, the project seeks to move beyond prohibitive enforcement to foster inclusive governance and minimize the drivers of IWT, including the associated socio-economic dimensions thereof. The goal is to produce evidence-based recommendations for legislative change that harmonise conservation goals with cultural continuity and sustainable traditional practices.

2 Project Objectives

1. Understand the relationship between traditional medicine and wildlife use through participatory, indigenous-led research.
2. Identify opportunities for integrating traditional use into national legal frameworks, while promoting sustainable species use.
3. Contribute to the decolonisation of environmental law and foster inclusive, participatory governance that aligns with global biodiversity and cultural rights commitments.
4. Generate legislative recommendations and frameworks for equitable participation of traditional healers in conservation policy.

3 Project Partners, Stakeholders and Collaborative Governance

The success of the VOICES Project relies on collaborative engagement with a diverse range of key stakeholders, each holding critical knowledge of traditional use, sustainable use and legal frameworks applicable to traditional healing and wildlife consumption.

The VOICES Project is implemented in partnerships between the EWT and the traditional healer-led Nature Speaks and Responds (NS&R). The core stakeholders are traditional healers themselves, who are recognised as the primary conservation actors whose

historical exclusion the project seeks to address. Their knowledge and participation are vital to accurately assess resource use and collectively produce effective, culturally appropriate recommendations.

Other stakeholders include traditional leaders, the National Department of Forestry, Fisheries and the Environment (DFFE), and provincial nature conservation departments, as, along with traditional healers, they are the ultimate recipients of the project recommendations and are responsible for administering conservation laws. Other conservation organisations and non-governmental organizations (NGOs) are equally invited to participate in the project to provide expertise and experience relating to indigenous uses of fauna and flora.

4 Methodology

We adopted a mixed-methods approach in the drafting of this report, combining desktop research with preliminary findings from our first four participatory workshops. The desktop research involved a review of existing literature, policy documents, legislation, academic articles and relevant reports, to establish a baseline understanding of the subject matter and identify key themes and knowledge gaps. ChatGPT and Google Gemini were used for content assistance, including identifying sources, summarizing content, and language improvement. The generated contents were reviewed and edited by the report authors. Complementing this, our workshops captured experiential insights and thoughts on incorporating traditional use into existing legal frameworks. This combination of these methods enabled a comprehensive, evidence-based understanding of the subject matter, while incorporating the voices and expertise of those directly involved in traditional healing.

PART A: LITERATURE REVIEW ON TRADITIONAL AND CUSTOMARY USE AND APPLICABLE LEGAL FRAMEWORKS

5 Overview of Traditional Healing and Traditional Medicine

Traditional healing practices and zootherapy have featured in folk pharmacopoeias throughout history and remain integral to medicinal and cultural practices in contemporary societies worldwide.[1] The definition of traditional healing varies, with the World Health Organisation (WHO) defining it as 'the sum total of all knowledge and practices, whether explicable or not, used in diagnosing, preventing or eliminating a physical, mental or social disequilibrium and which rely exclusively on past experience and observation handed down from generation to generation, verbally or in writing' and 'codified or non-codified systems for healthcare and well-being, comprising practices, skills, knowledge and philosophies originating in different historical and cultural contexts, which are distinct from and pre-date biomedicine, evolving with science for current use from an experience-based origin. Traditional medicine emphasises nature-

[1] VL Williams, TJ Moshoeu and GJ Alexander 'Reptiles sold as traditional medicine in Xipamanine and Xiquelene Markets (Maputo; Mozambique)' 112(7/8) (2016) *South African Journal of Science*.

based remedies and holistic, personalised approaches to restore balance of mind, body and environment.'[2]

Although the umbrella term 'traditional healing' is used when referring to many healing systems that differ from the Western healing system, traditional healing and the medicines used in traditional healing across the world vary because of the different contexts, countries and cultures in which they are practised.[3]

In South Africa, a wide range of communities depend on and prefer African Traditional Medicine (ATM). It is typically estimated that between 60% to 80% of black South Africans subscribe to traditional health care systems.[4] Traditional healing in South Africa is currently regulated by the Traditional Health Practitioners Act 22 of 2007,[5] which defines traditional health practice as:

> 'the performance of a function, activity, process or service based on a traditional philosophy that includes the utilisation of traditional medicine or traditional practice and which has as its object – (a) the maintenance or restoration of physical or mental health or function; or (b) the diagnosis, treatment or prevention of a physical or mental illness; or (c) the rehabilitation of a person to enable that person to resume normal functioning within the family or community; or (d) the physical or mental preparation of an individual for puberty, adulthood, pregnancy, childbirth and death, but excludes the professional activities of a person practicing any of the professions contemplated in the Pharmacy Act, Health Professions Act, Nursing Act, the Allied Health Professions Act, or the Dental Technicians Act and any other activity not based on traditional philosophy.'[6]

The Act defines traditional medicine as:

> 'an object or substance used in traditional health practice for – (a) the diagnosis, treatment or prevention of a physical or mental illness, or (b) any curative or therapeutic purpose, including the maintenance or restoration of physical or mental health or well-being in human beings, but does not include a dependence-producing or dangerous substance or drug.'

South Africa has 12 official languages, each with a word for traditional medicine. Examples include *muthi (Zulu)*, *sehlare (*Sepedi), *mushonga* (Venda), and *mayeza* (*X*hosa).[7] *Muthi* includes herbal, animal, and mineral materials used for both physiological treatment and symbolic or psychological purposes, and is administered by traditional healers to address physical ailments as well as broader social, spiritual, and

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[2] World Health Organization '*Global traditional medicine strategy 2025–2034'* (2025) Geneva: World Health Organization; World Health Organization '*The African Health Monitor'* (2010)' (Accessed: https://www.afro.who.int/sites/default/files/2017-06/ahm-special-issue-14.pdf).

[3] MG Mokgobi 'Understanding traditional African healing' 20 (2014) *Afr J Phys Health Educ Recreat Dance*.

[4] WA Nieman, AJ Leslie and A Wilkinson 'Traditional medicinal animal use by Xhosa and Sotho communities in the Western Cape Province, South Africa' 15:34 (2019) *Journal of Ethnobiology and Ethnomedicine*.

[5] The Traditional Health Practitioners Act 22 of 2007, Government Gazette. 2008;(30660): 2–48.

[6] Traditional Health Practitioners Act 22 of 2007, Section 1.

[7] D Mbendana, K Mamabolo, M Truter, Q Kritzinger, AR Ndhlala 'Practices at herbal (muthi) markets in Gauteng, South Africa and their impact on the health of the consumers: A case study of KwaMai-Mai and Marabastad muthi markets' 126 (2019) *South African Journal of Botany* https://doi.org/10.1016/j.sajb.2019.05.004.

cultural needs within communities.[8] The Traditional Health Practitioners Act only defines 'traditional medicine,' not the materials encompassing it.

The traditional medicine industry contributes significantly to local economies, employing at least 133,000 people, and estimated to be worth ZAR 2.9 billion annually.[9] In 2025, Botha and Malatji noted that over 2,000 plant species are used in traditional medicine in South Africa, with hundreds of these species traded in informal markets.[10] In the KwaZulu-Natal province, the trade in indigenous medicinal plants was valued at approximately ZAR 65 million per year in 1998, involving an estimated 4,500 tonnes of plant material.[11] In 2002, Dold and Cocks estimated that 166 medicinal plant species totalling over 525 tonnes and valued at around ZAR 27 million, were traded annually in the Eastern Cape province.[12] In 2007, Mander *et al* estimated the annual value of the trade in raw medicinal plant materials in South Africa to be approximately ZAR 520 million.[13]

Multiple plant species are therefore used in traditional healing, with healers and herbalists using plant derivatives such as roots, leaves, bark, bulbs and rhizomes, prepared in a variety of forms including infusions, decoctions, powders, and topical applications.[14] These plant parts are selected based on their perceived potency and availability, with roots, bulbs and bark often preferred due to beliefs that they contain stronger medicinal properties.[15] Traditional plant use is rooted in cultural systems ofembedded within indigenous knowledge systems, where harvesting practices, preparation methods, and combinations of plant materials are guided by customary rules and spiritual considerations. At the same time, increasing demand, commercialisation, and urbanisation have placed pressure on many species, particularly where destructive harvesting methods – such as root and bark removal – are used.[16]

Like plants, zootherapy forms an important component of traditional medicine and ritual practices in many South African cultures. It is used in the preparation of curative, protective, and preventative medicines.[17] As such, animals hold significance in traditional medicine and rituals. Reliable data on the utilisation of wild animal parts for traditional practices is limited due to its largely secretive and criminalised nature in South

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[8] C McFarlane 'South Africa: The Rise of Traditional Medicine' 7(1) (2015) *Insights on Africa*.
[9] J Green, P Hankinson, L de Waal, E Coulthard, J Norrey, D Megson and N D'Cruze 'Wildlife Trade for Belief-Based Use: Insights from Traditional Healers in South Africa' 10 (2022) *Front. Ecol.Evol.*
[10] J Botha and P Malatji '*Sowing seeds of hope – the Endangered Wildlife Trust's Medicinal Plant Initiative'* (2025) Accessed: https://ewt.org/medicinal-plant-conservation-pepperbark-south-africa/).
[11] M Mander '*Marketing of Indigenous Medicinal Plants in South Africa: A case study in Kwa-Zulu Natal'* (1998) Food and Agriculture Organisation of the United Nations: Rome.
[12] AP Dold and ML Cocks 'The trade in medicinal plants in the Eastern Cape Province, South Africa' 98 (2002) *South African Journal of Science*.
[13] M Mander, L Ntuli, N Diederichs and K Mavundla 'Economics of the Traditional Medicine Trade in South Africa' 1 (2007) *South African Health Review*.
[14] Z Booth '*Traditional medicines should be used in healthcare'* (2023) (Accessed: https://www.wits.ac.za/news/latest-news/opinion/2023/2023-08/traditional-medicines-should-be-used-in-healthcare.html).
[15] Z Booth (2023).
[16] J Botha & P Malatji (2025).
[17] MJ Whiting, V Williams and TJ Hibbitts 'Animals Traded for Traditional Medicine at the Faraday Market in South Africa: Species Diversity and Conservation Implications' in RR Nóbrega Alves and IL Rosa '*Animals in Traditional Folk Medicine'* (2013) Springer-Verlag: Berlin Heidelberg.

Africa, making it difficult to accurately assess volumes, species involved, or impacts on wild populations. Furthermore, regulatory controls over animal-based medicines are complicated by cultural and political dynamics surrounding the use of animals believed to hold symbolic or supernatural power.[18]

One of the few detailed investigations into the use of animal derivatives in traditional medicine is by Williams, Whiting and Hibbitts (2013), which surveyed the Faraday traditional-medicine market in Johannesburg, one of the main urban supply points where many traditional healers obtain materials from traders who harvest and source species to sell to healers. Their research documented an extensive and largely informal trade in animal products, identifying 147 vertebrate species being sold for medicinal, ritual, and symbolic purposes. The diversity of taxa included mammals, reptiles, birds, and amphibians, with mammals and reptiles most prevalent.[19]

The body parts traded vary widely, encompassing skins and hides, fat and oil, bones, skulls, tails, claws, quills, entire dried carcasses, and internal organs.[20] Because many traditional healers rely on market traders rather than harvesting animals themselves, commercial demand has intensified pressure on wild species.[21] This has been confirmed in the course of our workshops. This commercialisation has contributed to a growing and largely unregulated trade in animals and plants, making markets such as Faraday critical nodes in understanding animal use in traditional healing.[22]

The use of animals and plants for traditional medicine and associated markets in South Africa therefore has measurable conservation impacts, particularly where demand exceeds sustainable supply. Large urban *muthi* markets, such as those in Johannesburg and Durban, are driving high-volume trade in both plant and animal species, many of which are harvested from the wild with limited cultivation or management. This demand has been linked to population declines, particularly in species that are slow-growing, range-restricted, or already threatened. While traditional medicine remains a critical component of healthcare and livelihoods, the commercialisation of these markets can intensify harvesting pressure and contribute to biodiversity loss where sustainable-use practices are not implemented.

5.1 Traditional Healers and their Role in Society

Traditional healers occupy a respected and influential position in South Africa, often serving as primary healthcare providers, particularly in rural areas. Their professional status is formally recognised under the Traditional Health Practitioners Act, affirming their role within the broader healthcare system.[23] Beyond their medical function, traditional healers are regarded as custodians of cultural knowledge, spirituality, and indigenous systems of health and wellbeing. They draw on generational knowledge of

[18] S McKean, M Mander, N Diederichs, L Ntuli, K Mavundla, V Williams and J Wakelin 'The Impact of traditional use on vultures in South Africa' 65 (2013) *Vulture News*.
[19] MJ Whiting, V; Williams and TJ Hibbitts (2013).
[20] S McKean, M Mander, N Diederichs *et al* (2013); MJ Whiting, V; Williams and TJ Hibbitts (2013).
[21] S McKean, M Mander, N Diederichs *et al* (2013); VL Williams and MJ Whiting 'A picture of health? Animal use and the Faraday traditional medicine market, South Africa' 179 (2015) *Journal of Ethnopharmacology*.
[22] VL Williams, K Balkwill and ERF Witkowski 'Muthi traders on the Witswatersrand, South Africa – an urban mosaic' 63(3) (1997*) S.Afr.J.Bot*.
[23] MG Mokgobi (2014).

plants, animals, and minerals, alongside practices such as rituals and divination, to diagnose and treat illness while helping individuals and communities maintain social and spiritual balance. In this way, they play a central role not only in providing healthcare, but also in preserving cultural identity and ensuring community cohesion.[24]

5.1.1 Types of Traditional Healers

The term 'traditional healer' is often used as an umbrella term that encompasses different types of healers with different sets of training and expertise. The Traditional Health Practitioners Act recognises four kinds of healers, namely diviners, herbalists, traditional birth attendants, and traditional surgeons. There are, however, additional categories, which can also overlap with each other. For example, some healers may serve as diviners, herbalists or prophets within the Zion Christian church. Prophets emerged within independent churches that aimed to Africanise Christianity by incorporating African traditions and customs into their worship. The presence of prophets and the strong expression of African identity within these movements are key reasons why they attract millions of followers, making Zionist churches the largest Christian grouping in South Africa.[25] Except for faith healers who are professed Christians and were established after European missionary visits to Africa, all traditional healer categories have formed part of historic African society.[26]

5.1.2 Training of Traditional Healers

Traditional healer initiates undergo training from a traditional healer. For certain categories of traditional healers, particularly diviners, the training process is formal, rigorous, and can span several months to years, depending on the apprentice's rate of learning and other factors. Entry into the healing vocation is understood to require a calling from the ancestors, which often manifests through experiences mimicking illnesses as understood in Western medicine, including conditions such as schizophrenia or psychosis, or through recurrent dreams and visions in which ancestors communicate instructions. The legitimacy of such a calling is confirmed by an established diviner, who determines whether the individual should enter training and identifies the appropriate mentor under whom this training should occur.[27]

Not every traditional healer is permitted to conduct training. Training others is considered a distinct speciality and requires its own calling from the ancestors. During the training period, the initiate lives with the trainer and their household, allowing for continuous observation and instruction. Training covers a wide range of skills, including knowledge of medicinal plants and animal-based remedies, interpreting bones, analysing dreams, communicating with ancestors, and diagnosing and treating illnesses. Trainees must also follow specific rules set by the ancestors. When the trainer believes the initiate's training is complete, the process ends with a ceremony, which serves as a final

[24] MG Mokgobi (2014); G Setswe 'The Role of Traditional Healers and Primary Healer Care in South Africa' 4(2) (1999) *Health SA Gesondheid Journal of Interdisciplinary Health Science*: 56 – 60.
[25] MG Mokgobi (2014).
[26] C McFarlane (2015).
[27] MG Mokgobi (2014).

assessment to determine whether the trainee has mastered the necessary skills to be recognised as a healer.[28]

5.2 Colonialism and its impact on Traditional and Customary Practices in South Africa

Colonialism had a profound impact on traditional healing practices and the broader fabric of indigenous knowledge systems in South Africa. European settlers and missionaries viewed indigenous medicine as primitive, superstitious, backwards and inferior to Western medicine. This framing delegitimised African systems of healing and undermined the authority of traditional healers. As a result, traditional healers were increasingly marginalised, their practices dismissed as irrational, and their social and spiritual roles eroded.[29]

This marginalisation was reinforced through law and policy. Colonial authorities, and later the apartheid state, employed legal mechanisms to criminalise key aspects of traditional healing. This includes the South African Medical Association banning traditional medical practices in 1953,[30] as well as a series of legislative measures, including, *inter alia*, the Witchcraft Suppression Act 3 of 1957, the Witchcraft Suppression Amendment Act 50 of 1970, the Health Professions Act 56 of 1974[31] and the Medical, Dental and Pharmacy Act 13 of 1928. Although framed as measures to maintain public order, these laws functioned to exclude alternative systems and suppress indigenous knowledge, while entrenching Western medical dominance. Therefore, by imposing Western medical paradigms, African traditional healing practices were devalued.[32]

Because black South Africans were systematically excluded from quality Western healthcare, they continued to rely heavily on traditional healers. This created a paradox: while the state criminalised and stigmatised traditional medicine, it fostered the very conditions that made such practices indispensable to black South Africans.[33] Yet, centuries of colonialism, cultural imperialism, and apartheid not only stigmatised traditional medicine but also denied it the opportunity to evolve, formalise, and institutionalise on its own terms.

5.3 Traditional Healing in post-apartheid South Africa

With the dawn of democracy in 1994, the legal attitude toward traditional healing began to shift. Guided by the new South African Constitution, the post-apartheid democratic state moved to recognise and integrate indigenous healers within the public health framework. The Traditional Health Practitioners Act 35 of 2004 established a regulatory framework for traditional health practitioners. Under this Act, the government established the interim Traditional Health Practitioners Council of South Africa (THPC),

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[28] MG Mokgobi (2014).

[29] P Guma and S Mokgoatsana 'The historical relationship between African indigenous healing practices and Western-oriented biomedicine in South Africa: A challenge to collaboration' (2020) *HTS Teologiese Studies/ Theological Studies* 76(4), a6104; A Abdullahi 'Trends and Challenges of Traditional Medicine in Africa' 8(5) (2011) *Afr J Tradit Complement Altern Med*.

[30] A Abdullahi (2011).

[31] P Guma and S Mokgoatsana (2020).

[32] A Abdullahi (2011).

[33] P Guma and S Mokgoatsana (2020).

which was mandated to register healers and students, regulate training, and set practice standards.[34] This signalled a move away from the prior criminalisation and paved the way for traditional healers to operate openly, legally, and with recognition of their cultural and medical role.[35]

These efforts to recognise traditional healing within formal legal systems must be understood within a broader project of decolonisation in the post-apartheid era. Decolonisation, in this context, extends beyond formal legal recognition and seeks to dismantle the epistemological hierarchies established during colonialism, which privileged Western scientific knowledge over indigenous systems.[36] As reflected in scholarship on decolonial constitutionalism, the transformation of legal systems does not only require the inclusion of indigenous practices, but also the restructuring of legal authority to validate indigenous knowledge as equal, rather than subordinate.[37]

In South Africa, this process remains incomplete. While the Constitution recognises customary law and cultural rights, operationalising these rights continues to occur within predominantly Western legal frameworks. As a result, traditional healing practices often need to conform to externally imposed standards of legitimacy, rather than being governed on their own epistemic terms.[38] The Traditional Practitioners Act, discussed in the following section, is an example of this. This creates a tension between formal recognition and substantive decolonisation, where indigenous systems are acknowledged but not fully empowered.

6 Global Policy and Legislative Frameworks applicable to Traditional and Customary Biodiversity Use

This section outlines selected international instruments applicable to customary use, Indigenous knowledge, traditional healing and biodiversity use.

6.1 1966 United Nations International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) affirms that all peoples have the right to freely pursue their cultural development.[39] While the Covenant does not expressly mention traditional medicine or indigenous healing practices, Article 3 provides for the equal right of men and women to enjoy all rights outlined in the ICESCR, including cultural rights. Article 15, which protects the right to participate in cultural life, further provides a basis upon which the use and preservation of traditional medicine may be understood as part of the broader enjoyment of cultural rights. In particular, the Covenant requires State Parties to take the necessary steps to

[34] Traditional Health Practitioners Act, 2004, Section 4.
[35] LM Mpobane and N Gqaleni 'Tracing the roots of biomedical hegemony in South Africa: A critical discourse analysis of colonial and apartheid policies and their impact on traditional health practitioners' 6 (2026) *SSM – Health Systems*.
[36] TM Masenya 'Decolonization of Indigenous Knowledge Systems in South Africa' 18(1) (2022) *International Journal of Knowledge Management*.
[37] TM Masenya (2022).
[38] TM Masenya (2022).
[39] United Nations '*International Covenant on Economic, Social and Cultural Rights'* (1967) (Accessed: 'https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf') Article 1.

conserve, develop, and diffuse science and culture, and recognises the benefits derived from the encouragement and development of international contacts and cooperation in science and culture.[40] These provisions therefore support the preservation, transmission, and continued practice of Indigenous knowledge systems, which includes traditional medicine.

6.2 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms the collective and individual rights of Indigenous Peoples to maintain, control, protect, and develop their cultural heritage, traditional knowledge, and traditional cultural expressions.[41]

Article 24 provides that "Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals, and minerals." Although UNDRIP is not legally binding, it has influenced the development of domestic legal frameworks and international standards. In the context of traditional medicine and biodiversity use, UNDRIP provides the foundation to recognise indigenous knowledge systems as legitimate, reinforcing the need for participatory governance and equitable benefit-sharing. From a decolonisation perspective, UNDRIP advances the legal and political empowerment of Indigenous communities within environmental and resource governance systems.

6.3 1992 Convention on Biological Diversity 2010 (CBD)

The CBD[42] aims to ensure the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. Article 8(j) proves that each contracting party shall "subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and 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."

The CBD 2010 Nagoya Protocol on Access and Benefit-Sharing provides the framework for recognising the rights of indigenous communities over their genetic resources and associated traditional knowledge.[43] It requires that access to such knowledge be based on prior informed consent and that benefits arising from its use be shared equitably. In the context of traditional healing, this is particularly relevant where indigenous knowledge informs pharmaceutical development or commercial use of biodiversity. A

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[40] ICESCR, Article 15(2).

[41] United Nations '*UN Declaration on the Rights of Indigenous Peoples*' (2007) (Accessed: https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples).

[42] Convention on Biological Diversity (1992) (Accessed: https://www.cbd.int/doc/legal/cbd-en.pdf).

[43] Convention on Biological Diversity (CBD) '*The Nagoya Protocol on Access and Benefit-sharing*' (Accessed: https://www.cbd.int/abs/default.shtml); S Kumar, RK Sindhu, P Dagur *et al* 'Protecting heritage: The role of legal frameworks in safeguarding African traditional medicines' 24(1) (2024) *Biochemical and Cellular Archives*.

decolonised legal approach would require that traditional healers are not only acknowledged as knowledge holders but are active participants in benefit-sharing arrangements, ensuring that their contributions are recognised, protected, and fairly compensated.[44]

6.4 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

CITES[45] governs the international trade of endangered species, many of which are used in traditional medicine. It does so by listing species on one of three appendices, depending on the level of protection that they require. International trade is then regulated through import and export permits. Traditional healers who source animal or plant materials from or engage in cross-border trade must comply with these rules, highlighting the relationship between cultural practices and global conservation obligations.

Integrating CITES compliance with decolonised approaches illustrates the need to also align international law with culturally informed strategies. Traditional healers should also be consulted in developing guidelines for sourcing, trade, and substitution of endangered species traded globally, ensuring that compliance does not criminalise indigenous practices but instead encourages sustainable use or alternatives. Education and capacity-building initiatives can enable healers to align their practices with international conservation norms, creating a collaborative and culturally sensitive framework that protects heritage and biodiversity, both domestically and internationally.

6.5 World Health Organization (WHO) Global Traditional Medicine Strategy 2025–2034

Following key WHO declarations related to primary health care and traditional medicine, including the 1978 Declaration of Alma Ata and the 2018 Declaration of Astana, and previous WHO traditional medicine strategies (2002–2005 and 2014–2023), the 2025 – 2035 Strategy aims to enhance the contribution of traditional, complementary and integrative medicine (TCIM) to universal health coverage and sustainable development.[46]

Adopted by the World Health Assembly in 2025, the strategy emphasises the need for evidence-based integration of traditional medicine into national health systems, while ensuring safety, quality, and regulatory oversight. It has four strategic objectives, namely strengthening the evidence base for traditional practices, supporting equitable access to safe and effective traditional medicine through appropriate regulatory mechanisms, integrating safe and effective TCIM into primary health care, and maximising its cross-sectoral value through data, collaboration and empowered communities. Importantly, the strategy adopts a people-centred and culturally respectful approach, recognising the role of indigenous knowledge systems while also addressing risks such as weak

[44] CBD (2010); S Kumar *et al* (2024).
[45] *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (1973) (Accessed: https://cites.org/eng/disc/what.php#:~:text=CITES%20(the%20Convention%20on%20International%20Trade%20in,not%20threaten%20the%20survival%20of%20the%20species.).
[46] WHO *'Global traditional medicine strategy 2025-2034'* (2025) (Accessed: https://www.who.int/publications/i/item/9789240113176).

regulation, uneven evidence, and the potential misappropriation of traditional knowledge.[47]

6.6 2024 World Intellectual Property Organisation (WIPO) Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge

The Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge represents a landmark development in international intellectual property law, addressing the misappropriation of indigenous knowledge and biological resources.[48] The treaty introduces a mandatory disclosure requirement within patent systems, which obligates applicants to identify the country of origin of genetic resources and, where applicable, the indigenous peoples and local communities (IPLC) providing associated traditional knowledge when an invention is based on such resources.[49] This requirement aims to enhance transparency, improve patent quality, and prevent the granting of patents that lack novelty due to reliance on pre-existing traditional knowledge.[50]

Importantly, the treaty marks the first multilateral intellectual property instrument which explicitly recognises the role of indigenous communities within the patent framework, reflecting a shift toward a more inclusive global intellectual property system. However, while it is widely regarded as a significant step toward addressing "biopiracy," its scope remains limited, as it does not establish direct benefit-sharing obligations, instead operating primarily through disclosure and procedural safeguards within patent law.[51]

7 South African Legal and Policy Frameworks applicable to traditional healing and customary wildlife use

This section examines the key legal and policy frameworks that govern traditional healing and the environment in South Africa. It highlights how these laws intersect with the practices of traditional healers and explores opportunities to decolonise and integrate indigenous knowledge into national policy and conservation frameworks.

7.1 Constitution of the Republic of South Africa Act 108 of 1996

The South African Constitution provides the overarching framework within which traditional healing and wildlife use are recognised and regulated. Sections 30 and 31 protect cultural and religious rights, while Section 211 requires courts to apply customary law where applicable.

Section 24 affords everyone the right to an environment that is not harmful to their health or well-being and to have the environment protected. It requires the state to ensure sustainable use of natural resources. In addition, section 36 provides for the limitation of rights where reasonable and justifiable. The Constitution therefore establishes a

[47] WHO (2025).
[48] D Jefferson 'The World Intellectual Property Organization Treaty on genetic resources and traditional knowledge: Implications for plant science' 7(4) (2024) *Plants, People, Planet*.
[49] D Jefferson (2024); WIPO '*Summary of the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* (2024)' (Accessed: https://www.wipo.int/en/web/treaties/ip/gratk/summary_gratk).
[50] WIPO (2024).
[51] D Jefferson (2024); WIPO (2024).

balancing framework, recognising traditional practices while requiring that they align with environmental protection and sustainability.

The constitutional balancing of cultural rights and environmental regulation has been considered in South African jurisprudence, most notably in *S v Gongqose and Others* (2018).[52] This case concerned members of a coastal community who were criminally charged for fishing without permits within a marine protected area, despite asserting a customary right to access marine resources that they had historically accessed. The accused, who were members of the Dwesa-Cwebe community in the Eastern Cape, had entered a no-take marine protected area and harvested marine resources for subsistence purposes in accordance with long-standing customary practices. They emphasised that they and their ancestors had always fished in these waters, relying on the area for food, livelihoods, and cultural practices over generations. This use formed the basis of their claim that they were entitled to practice their customary rights despite legal restrictions.

The Supreme Court of Appeal recognised that the applicants' fishing practices were rooted in customary law and longstanding cultural use and held that these rights must be meaningfully considered within the framework of constitutional protections. Importantly, the Court found that the failure of the regulatory system to adequately recognise and accommodate customary practices rendered its application unjust in the circumstances. The Gongqose case made it clear that there are traditional and customary systems that guide and seek to ensure sustainable practices, that these systems are not legally recognized in environmental legislation and governance systems, and that the law needs to be developed to be more inclusive of these customary rights.

The judgment therefore affirms that customary use of natural resources is not automatically subordinate to statutory conservation frameworks but must be balanced through a context-specific and rights-based approach. Second, it highlights a key limitation in South Africa's legal system: while customary rights are recognised in principle, regulatory systems often fail to operationalise them in practice.

From a decolonisation perspective, the case illuminates the need to move beyond formal recognition and toward substantive legal pluralism, where customary systems of resource governance are integrated into environmental regulation. This has direct implications for traditional healers, whose use of biodiversity similarly exists at the intersection of cultural rights and conservation law. Without such integration, regulatory frameworks risk perpetuating colonial patterns of exclusion under the guise of environmental protection.

7.2 Traditional Health Practitioners Act 22 of 2007

After the Traditional Health Practitioners Act of 2004 was declared invalid by the Constitutional Court, the Traditional Health Practitioners Act of 2007 was enacted to recognise, regulate, and formalise the role of traditional healers in South Africa's healthcare system. It provides a framework for the registration, training, and ethical practice of traditional health practitioners, recognising their integral role in communities

[52] Gongqose & others v Minister of Agriculture, Forestry & Fisheries and others; Gongqose & others v State & others (1340/16 & 287/17) [2018] ZASCA 87 (01 June 2018) (Accessed: https://cer.org.za/virtual-library/judgments/supreme-court-of-appeal/s-v-gongqose-others).

and cultural continuity. The Act allows healers to operate legally, which can support sustainable use, ensuring that practices contributing to conservation are encouraged while illegal or unsustainable exploitation is discouraged. It represents a step toward decolonising health law by formally acknowledging indigenous knowledge systems alongside Western biomedical frameworks.

Nonetheless, there remains shortfalls within the Traditional Health Practitioners Act.[53] The regulations, which seek to operationalize the Act, have not yet been enacted. Furthermore, the Act acknowledges that to heal, medicine is made. And while it legitimises traditional healers, it does not comprehensively address the intersection of traditional medicine with wildlife use and conservation. It does not recognize plant, animal and mineral components required for remedies and provides no guidance on the sourcing of regulated wildlife products or compliance with biodiversity regulations, creating legal and ethical grey areas.

Incorporating explicit provisions for sustainable wildlife use and conservation education for healers could bridge this gap. In a decolonised legal framework, traditional healers should be actively involved in shaping legal frameworks that apply to them, recognising their expertise in indigenous medicines while aligning practices with national conservation priorities.

The publication of the Traditional Health Professional Regulations for public comment in 2024 signalled continued efforts to formalise traditional healing in South Africa. Once the regulations are enacted, the implementation of registration requirements and practice rules under the Interim Traditional Health Practitioners Council will mark a significant shift toward stricter governance of the profession, provided it is enforced. These measures aim to standardise training, enforce ethical conduct, and ensure accountability across the sector.[54]

While this represents an important step toward recognition, it also raises critical questions from a decolonisation perspective. Increased formalisation may inadvertently impose rigid, biomedical-style regulatory frameworks onto inherently flexible and spiritually grounded practices. If not carefully implemented, such regulation risks reproducing colonial dynamics by reshaping traditional healing to fit Western institutional models, rather than supporting it on its own terms.

A decolonised approach to regulation would therefore require traditional healers to play a central role in designing regulations that apply to them in order to ensure that formalisation and regulation strengthen rather than constrains indigenous knowledge systems and allow for their dynamic nature.

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[53] LM Mpobane and N Gqaleni (2026).

[54] Labour Guide '*A new era for traditional healers: A step towards formalisation and regulation*' (2025) (Accessed: https://labourguide.co.za/employment-condition/other-employment-conditions/a-new-era-for-traditional-healers-a-step-towards-formalisation-and-regulation#:~:text=While%20the%20THPA%20has%20been,seeking%20to%20practice%20traditional%20health).

7.3 Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019

The Act is primarily concerned with the recognition, protection, promotion, and management of indigenous knowledge systems. This includes knowledge related to traditional medicine, healing practices, and associated cultural expressions. In this sense, it applies to traditional healers, as their knowledge – such as diagnosis, remedies, and spiritual practices – falls within the definition of indigenous knowledge that the Act seeks to protect and formalise, such as through registration and benefit-sharing mechanisms.

However, with regards to customary wildlife use, the Act's application is indirect. It does not govern the harvesting, trade, or use of wildlife resources themselves. Instead, it protects the knowledge associated with how and why certain species are used.

7.4 National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA)

NEMBA provides the foundation for South Africa's biodiversity conservation, including the protection of threatened species. NEMBA regulates the harvesting, trade, and use of such species through providing for restricted activities[55] applicable to threatened or protected species. The harvesting, possession and trade of these species requires a permit. Although NEMBA applies to traditional healers, traditional use is only expressly mentioned in relation to bioprospecting, access and benefit sharing.

NEMBA's Threatened or Protected Species (ToPS) Regulations of 2007 specify the procedures for permits, trade, and use of listed species. For traditional healers, the ToPS regulations directly impact their access to wildlife resources, requiring legal compliance when using species for traditional healing. This regulatory framework is essential for balancing cultural practices with species protection, although navigating permit processes can be costly, complex and bureaucratic, often limiting the capacity of healers to fully participate. Initial VOICES workshops have also illustrated limited knowledge of the permitting system, with most sourcing of ToPS currently taking place in contravention of NEMBA. NEMBA's CITES Regulations of 2010 also incorporates CITES Appendices, requiring import and export permits for CITES-listed species traded internationally.

By enforcing sustainable practices, NEMBA creates a framework in which traditional medicine can coexist with conservation objectives, though this requires active engagement and collaboration with traditional healers. From a decolonisation perspective, NEMBA's implementation can be more inclusive by formally recognising the role of traditional healers in managing species of cultural significance. Co-management models, consultation platforms, and training initiatives could empower healers to participate in conservation decision-making. Integrating traditional healers into NEMBA processes ensures that biodiversity law respects indigenous knowledge while mitigating

[55] NEMBA, Section 57 provides that a person may not carry out a "restricted activity" involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 7. Section 1 of the Act defines "restricted activity" broadly to include hunting, catching, capturing or killing; gathering, collecting or plucking; picking parts of, or cutting, chopping off, uprooting, damaging or destroying; importing, exporting or re-exporting; having in possession or exercising physical control; breeding, propagating or artificially growing; conveying, moving or otherwise translocating; selling or otherwise trading; buying, receiving, giving, donating or accepting as a gift; as well as any other activity that may be prescribed.

the risk of illegal or unsustainable wildlife use, fostering a legal ecosystem where cultural and ecological goals are harmonised.

There is also an opportunity to decolonise NEMBA's ToPS regulations by making them more accessible and culturally sensitive. This could involve simplified permit systems for registered traditional healers, recognition of culturally significant species, and collaboration between authorities and healer associations to ensure sustainable harvesting and trade. By embedding traditional knowledge into the permit and monitoring processes, regulations can support sustainable wildlife use while validating the knowledge and agency of South Africa's traditional healing sector.

7.5 Provincial conservation legislation

Schedule 4 of the South African Constitution establishes concurrent legislative competence for biodiversity conservation, meaning that both national and provincial governments may legislate in this area. As a result, each province implements its own conservation legislation alongside national laws. Many provincial conservation laws are however outdated and rooted in pre-1994 ordinances, with six of the nine provinces still applying legislation that predates the constitution.[56] While there are ongoing efforts across provinces to draft and introduce updated environmental legislation, these processes remain uneven and largely incomplete, highlighting the need for a more harmonised and modernised approach to conservation governance in South Africa.

7.6 2022 White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity

The 2022 White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity provides a comprehensive policy framework with four strategic pillars - to guide biodiversity conservation, the sustainable use of biological resources, access to genetic resources, and the fair and equitable sharing of benefits arising from their utilisation.[57] It also seeks to redress historical inequalities by promoting the inclusion of previously disadvantaged individuals, as well as IPLCs, in the biodiversity economy.[58]

Within the context of its four strategic pillars, the White Paper recognises the systemic barriers faced by traditional leaders, traditional healers, and IPLCs, particularly in relation to limited access to natural resources, restricted participation in decision-making processes, and exclusion from biodiversity-based socio-economic opportunities. In response, it provides policy direction aimed at enhancing participation, improving access, and ensuring more equitable benefit-sharing arrangements.

Central to the framework is the recognition that indigenous and traditional knowledge systems play a critical role in biodiversity conservation and sustainable use. The White Paper affirms that such knowledge must be formally recognised and integrated into conservation strategies. It promotes an integrated conservation approach grounded in

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[56] Endangered Wildlife Trust '*Review Report of Provincial Conservation legislation*' (2024).

[57] Department of Forestry, Fisheries and the Environment '*White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity* (2022) (Accessed: https://www.dffe.gov.za/sites/default/files/legislations/sabiodiversity2023whitepaper.pdf).

[58] White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity (2022).

the philosophy of *Ubuntu*, emphasising the interconnectedness between people and nature and encouraging harmony through cultural, spiritual, and traditional practices.

The White Paper further calls for biodiversity conservation to be institutionalised within traditional governance systems, including empowering Traditional Authorities to play a more active role in the management, expansion, and custodianship of protected and conservation areas. It envisages mechanisms and tools that enable traditional leaders to guide their communities in accessing biodiversity resources and heritage sites, while facilitating the continuation of sustainable traditional practices. The White Paper therefore aligns with legislative developments such as the Traditional and Khoisan Leadership Act 3 of 2019.

Overall, the White Paper's intended outcome is a more inclusive and equitable conservation system in which traditional leaders, traditional healers, and IPLCs are recognised, respected, and actively engaged as custodians of biodiversity and holders of valuable traditional knowledge, innovations, and practices.[59]

7.7 2008 Draft Policy on African Traditional Medicine for South Africa

The 2008 Draft Policy on African Traditional Medicine for South Africa was developed to provide a framework for the formal institutionalisation of ATM within the national healthcare system. The draft policy was tabled in 2008, with an initial target of implementation by 2010. However, it has not yet been formally adopted or implemented.[60]

The Draft Policy defines ATM as a body of knowledge developed over thousands of years, encompassing practices associated with the examination, diagnosis, therapy, treatment, prevention, and rehabilitation of the physical, mental, spiritual, and social well-being of both humans and animals. It adopts a holistic understanding of health that reflects the interconnected nature of these dimensions within indigenous knowledge systems. The policy emerged from the work of the 2006 Presidential Task Team on ATM, which was appointed to make recommendations on the development of a national policy as well as an appropriate regulatory and legal framework for the recognition and integration of ATM in South Africa.[61]

To support the institutionalisation of ATM, the policy recommended enacting dedicated legislation to create an enabling environment for regulating the sector. This includes the establishment of systems for the registration and regulation of ATM and medicinal products, the protection of traditional knowledge and associated intellectual property rights, and safeguarding the rights of practitioners operating within the ATM sector. The policy further proposed the development of a national pharmacopoeia for ATM, aimed at documenting and standardising medicinal substances and practices. In addition, the

[59] White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity (2022).
[60] Department of Health '*Draft Policy on African Traditional Medicine for South Africa'* (2008) Government Gazette No. 31265 (Accessed: https://www.gov.za/sites/default/files/gcis_document/201409/31265902.pdf).
[61] 2008 Draft Policy on African Traditional Medicine for South Africa.

Draft Policy recommended establishing an Interministerial Committee on ATM, to be chaired by the Ministry of Health, to ensure coordination across government departments in the development and implementation of ATM-related initiatives.[62]

Despite these detailed proposals, the absence of formal adoption and implementation since 2008 highlights a significant gap in South Africa's legal and policy framework. This is further evidenced in the limited operationalisation of the Traditional Health Practitioners Act. It does however serve to provide insight into potential pathways towards formalised regulation of the traditional healing sector in South Africa.

7.8 Gaps, Weaknesses and Opportunities for Legal Integration of Traditional Use into South African Legal Frameworks

Despite progressive recognition of traditional healing in South Africa, the legal framework remains fragmented and poorly implemented. Key gaps include the separation between health and environmental legislation, the absence of focused provisions regulating biodiversity use within traditional medicine, and limited practical inclusion of traditional healers in conservation governance. Existing systems, particularly under NEMBA, impose complex and inaccessible compliance requirements, which marginalise traditional healers and drive practices into informal or illegal spaces.

However, significant opportunities exist to address these weaknesses. Integrating traditional healers into co-management structures, simplifying regulatory processes, and embedding indigenous knowledge into biodiversity governance can promote sustainable use while respecting cultural practices. Aligning the Traditional Health Practitioners Act and NEMBA through participatory and culturally informed approaches offers a pathway toward a more coherent, inclusive, and effective legal framework.

PART B: COMPARATIVE CASE STUDIES OF LEGAL FRAMEWORKS INCORPORATING TRADITIONAL PRACTICES AND KNOWLEDGE INTO ENVIRONMENTAL LAW

As South Africa grapples with the practical realisation of a decolonised legal order and the integration of indigenous knowledge and traditional use into biodiversity governance, valuable insights can be drawn from comparative experiences globally.

8.1 Canada

Section 35 of Canada's Constitution Act of 1982 affirms the rights of indigenous peoples of Canada. This is reflected in Canadian environmental law, which requires traditional use and indigenous knowledge to be considered in multiple laws. One example is Canada's Species at Risk Act S.C. 2002, c. 29 which regulates the process of assessing different species' conservation status, similar to what the International Union for the Conservation of Nature (IUCN) does globally by listing a species as vulnerable, threatened, etc. Conservation measures are then implemented based on species' assessed conservation status, including protecting habitats and prohibiting certain activities.

[62] 2008 Draft Policy on African Traditional Medicine for South Africa.

The Act provides for the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and subcommittees, including Species Specialist Subcommittees and the Aboriginal Traditional Knowledge Subcommittee (ATK SC), whose chairperson is appointed by the Minster of Environment and Climate Change, following consultation with aboriginal organisations. COSEWIC also developed Aboriginal traditional knowledge guidelines, which focused on the ethics of using Aboriginal traditional knowledge, reflecting the global recognition that such knowledge must remain the property of IPLC.

COSEWIC advises the Minister and carries out species assessments after being provided with candidate species identified by the subcommittees. COSEWIC, or a contractor, then drafts status reports, which includes the best available knowledge, including indigenous knowledge, on each species, after which subcommittees, including the ATK SC, and Wildlife Management Boards, which include indigenous/federal co-management bodies, review the reports. Species are then listed, reclassified, or removed from previous listings. When listed, recovery actions are prepared. This includes action and management plans which are developed in conjunction with indigenous and wildlife management organisations that are affected by the management of the species.

Another example is Canada's Impact Assessments Act (IAA) S.C. 2019, c. 28, s 1,[63] which aims to prevent or mitigate significant adverse effects, including environmental impacts, which may be caused by the carrying out of projects. It establishes processes to anticipate, identify and assess the potential effects of those projects. The Act mandates the Minister to exercise their powers in a manner that fosters sustainability, takes into account indigenous knowledge, and promotes cooperation with the indigenous peoples of Canada. Section 22 provides that any assessment must consider the impact that the project may have on any indigenous group and any adverse impact that the designated project may have on the rights of the indigenous peoples of Canada. The Act provides mechanisms to enable their participation in assessments.

The Canadian example illustrates how indigenous knowledge should be included in environmental processes from consultation to eventual decision-making and implementation.[64]

8.2 New Zealand

Section 2 of the Treaty of Waitangi, New Zealand's founding document, affirms the protection of Māori rights, including self-determination over lands and resources.[65] Although the Treaty itself is not directly enforceable unless incorporated into legislation, its principles are embedded across New Zealand's environmental and resource

[63] Government of Canada '*Impact Assessments Act (IAA) S.C. 2019, c. 28, s 1'* (Accessed: https://laws.justice.gc.ca/eng/acts/i-2.75/index.html).

[64] CR Harris 'Traditional Ecological Knowledge and the Law: The Canadian Case (Part II)' December 12, 2018. *Environmental Law Institute*. (Accessed: https://www.eli.org/vibrant-environment-blog/traditional-ecological-knowledge-and-law-canadian-case-part-ii).

[65] The Treaty of Waitangi (Te Tiriti o Waitangi) is New Zealand's founding document, signed in 1840, between the British Crown and Māori chiefs. It is a compact creating a partnership, allowing British governance while guaranteeing Māori authority over their lands, culture, and treasures. It is central to modern New Zealand law, politics, and social policy.

management framework, requiring that Māori customary rights, practices, and knowledge systems be recognised and given effect in decision-making processes.[66]

This is evident in New Zealand's conservation laws, where the Conservation Act 1987 functions as an overarching framework. Section 4 of the Act requires that it be interpreted and administered to give effect to the principles of the Treaty of Waitangi, thereby embedding Māori customary rights within conservation governance. This includes recognizing Māori customary use of indigenous plants, animals, and materials, including *rongoā* (traditional medicine), which is an important aspect of cultural identity and wellbeing.[67] Section 30 of the Conservation Act permits the harvesting of plants for traditional purposes, if authorised by the Director-General of Conservation.

Wildlife use is subject to a range of laws, including the Wildlife Act 1953, National Parks Act 1980, and Reserves Act 1977, which primarily prioritise conservation but allow for limited customary use within controlled frameworks. The Wildlife Act 1953 is the primary legislation governing threatened species in New Zealand.[68] The Act prohibits hunting, harvesting, and related activities applicable to protected species without the necessary authorisation.[69] The National Parks Act 1980 also ensures the protection and preservation of indigenous plants and animals.[70] Native plants are also protected under the Native Plants Protection Act 1934.

New Zealand's legal framework further recognises that Māori customary practices are governed by customary law, which includes concepts such as guardianship, temporary prohibitions, and the sustainable use of resources. These systems regulate traditional practices, including harvesting and medicinal use, within a cultural and spiritual framework that emphasises intergenerational stewardship. The law increasingly acknowledges these systems, particularly through co-management arrangements and

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[66] C Jacobson, H Matunga, H Ross *et al* 'Mainstreaming indigenous perspectives: 25 years of New Zealand's *Resource Management Act' (2016) 23(4) Australasian Journal of Environmental Management,* 331–337. https://doi.org/10.1080/14486563.2016.1259201.

[67] New Zealand Conservation Authority '*Maori Customary Summary Document: Maori customary use of native birds plants and other traditional materials'* 2023 (Accessed: https://www.doc.govt.nz/Documents/getting-involved/nz-conservation-authority-and-boards/nz-conservation-authority/maori-customary.PDF).

[68] The Wildlife Act 1953 is supported by and read with the Marine Mammals Protection Act 1978, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Fisheries Act 1996, the Conservation Act 1987, the National Parks Act 1980, the Reserves Act 1977, the Marine Reserves Act 1971, and the Biosecurity Act 1993.

[69] Section 63 of the Act states that no person may without lawful authority hunt, kill any absolutely protected or partially protected wildlife or any game, buy, sell, or otherwise dispose of, or have in his or her possession any absolutely protected or partially protected wildlife or any game or any skin, feathers, or other portion, or any egg of any absolutely protected or partially protected wildlife or of any game; rob, disturb, or destroy, or have in his or her possession the nest of any absolutely protected or partially protected wildlife or of any game.

[70] In terms of section 5, 'activity' refers to the cutting, destroying, or taking, or purport to authorise any person to cut, destroy, or take, any plant or part of a plant that is indigenous to New Zealand' and/or 'disturbing, trapping, taking, hunting, or killing, or purport to authorise any person to disturb, trap, take, hunt, or kill any animal that is indigenous to New Zealand. '

advisory bodies such as the New Zealand Conservation Authority, which provides guidance on conservation policy and Māori customary use.[71]

In addition, legislation such as the Te Ture Whenua Māori Act 1993 recognise Māori customary land and affirm that land held in accordance with tikanga Māori retains its customary status, thereby protecting the relationship between land, culture, and traditional practices. This is complemented by developments in case law and legislation recognising Māori customary rights in natural resources, including marine areas under the Marine and Coastal Area (Takutai Moana) Act 2011.

Overall, the New Zealand framework recognises traditional practices, including medicinal use and resource harvesting, and regulates them through laws, Treaty-based obligations, and customary law. While conservation legislation imposes limits to ensure sustainability, Māori customary rights and knowledge systems are embedded within environmental governance and decision-making processes.

8.3 India

Section 29 of the Constitution of India of 1949 provides that 'any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.' Section 48A also requires the State to protect and improve the environment and to safeguard India's forests and wildlife. Article 51A(g) similarly requires Indian citizens to protect and improve the environment. Although the Constitution does not make express mention of indigenous knowledge systems, protection is afforded through a combination of environmental, biodiversity, and health regulatory frameworks.

The Biological Diversity Act of 2002 gives effect to India's obligations under the Convention on Biological Diversity and establishes a legal framework for the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilisation of biological resources and associated traditional knowledge. The Act recognises the value of traditional knowledge held by local and indigenous communities, particularly in relation to the use of biological resources for purposes such as traditional medicine. Section 3 regulates access to such resources through a system of approvals, with Section 41 mandating consultation with local communities through Biodiversity Management Committees (BMC).

Section 7 provides that "no person, other than the person covered under sub-section (*2*) of section 3, shall access any biological resource and its associated knowledge for commercial utilisation, without giving prior intimation to the concerned State Biodiversity Board." The section however explicitly provides that the section "shall not apply to the codified traditional knowledge, cultivated medicinal plants and its products, local people and communities of the area, including growers and cultivators of biodiversity and to vaids (traditional practitioner of Ayurveda), hakims (practitioner of traditional medicine) and registered Ayurveda, Yoga, Naturopathy, Unani, Siddha and

[71] New Zealand Conservation Authority was established under section 6A of the Conservation Act 1987.

Homoeopathy (AYUSH) practitioners only who have been practicing indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood."

Section 41 further provides that "the National Biodiversity Authority and the State Biodiversity Boards shall consult the BMC while taking any decision relating to the use of biological resources [or traditional knowledge associated thereto] occurring within the territorial jurisdiction of the BMC." It further provides for access and benefit-sharing mechanisms under Section 21, ensuring that benefits arising from the use of biological resources and associated knowledge are shared with the communities from which they originate. These benefits may include monetary compensation, technology transfer, or joint ownership of intellectual property rights.

The Act establishes a three-tier governance structure comprising the National Biodiversity Authority at the national level, State Biodiversity Boards at the state level, and BMCs at the local level. This framework ensures that traditional knowledge is documented, often through People's Biodiversity Registers, and that local communities participate in decision-making processes relating to access and use at various levels of governance.

In addition to biodiversity legislation, India formally recognises traditional systems of medicine – including through state structures such as the Ministry of AYUSH, which regulates and promotes these systems as part of the national healthcare framework. These systems rely heavily on natural resources and long-standing indigenous knowledge, further linking health regulation with biodiversity governance. AYUSH practitioners are regulated by the Indian Medicine Central Council (IMCC) Act of 1970 and AYUSH medicines are regulated by the Drugs and Cosmetics Act of 1940. Under the IMCC Act, a Central Council on Indian Medicine, constituting committees for Ayurveda, Siddha and Unani is assigned to oversee AYUSH practitioners and their practices and maintain associated registers.[72]

The regulation of both modern medicine and AYUSH medicines falls under the Drug and Cosmetics Act of 1940, although both forms of medicine are managed separately, providing for their own health care provisions, education and regulatory systems. AYUSH medicine, in most cases, is the responsibility of state authorities and registration of new drugs and clinical trials is the responsibility of a centrally assigned organisation for AYUSH medicines.[73]

The Indian model reflects a regulatory approach in which traditional practices, including medicinal use, are recognised and protected through biodiversity law and health governance systems. While the framework is robust in addressing issues of access, benefit-sharing, and prevention of biopiracy, it is largely resource-focused, with

[72] U Felix '*Paving a Way to Effectively Regulate African Traditional Medicines in South Africa'* (2017) Research project submitted in partial fulfilment of the requirements for the degree M.Sc. in Pharmacy Administration and Policy Regulation, University of the Western Cape.
[73] U Felix (2017)

protection centred on traditional knowledge as it relates to biological resources rather than on the broader recognition of customary law systems or cultural rights.

8.4 Brazil

In Brazil, traditional medicine and indigenous health practices are embedded in a comprehensive legal and policy framework that combines constitutional protection, public health integration, and biodiversity governance. Section 225 of the 1988 Constitution of Brazil provides that "all have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations." Section 231 also affirms the rights of Indigenous peoples to maintain their customs, beliefs, and traditional knowledge systems, including healthcare practices.[74]

This is reinforced by Law No. 9.836 of 1999 (Arouca Law), which regulates the use of animals in scientific research and teaching and established the Indigenous Health Care Subsystem within the Unified Health System. Further support is provided through Decree No. 5.813 of 2006, which adopts the National Policy on Medicinal Plants and Herbal Medicines, and the National Policy on Integrative and Complementary Practices (PNPIC), which formally incorporates traditional therapies into public healthcare. At the regulatory level, the Brazilian Health Regulatory Agency (ANVISA) Resolution of the Collegiate Board of Directors No. 26 of 2014 recognises "Traditional Herbal Products," allowing their registration based on evidence of long-standing use. Brazil Biodiversity Law No. 13.123 of 2015 governs access to genetic heritage and associated traditional knowledge, ensuring benefit-sharing with indigenous and traditional communities.

Generations of Brazilian communities have relied on wild plants and animals as sources of medicine, food, and spiritual remedies. This tradition is woven into local cultural, economic, and health systems, providing essential healing treatments, including for rural populations, especially where formal health care is limited or inaccessible.[75] But despite this deep-rooted history, growing concern over biodiversity loss and the ecological impact of widespread harvesting, commercialisation and globalization of the traditional medicine trade has prompted the need to explore avenues for more sustainable use.[76] In addition to regulatory frameworks, local efforts also seek to use indigenous knowledge to ensure sustainability.

Traditional healers and community networks in Brazil act as custodians of biodiversity – advocating for conservation and sustainable use. One example is the Pacari Network, which is comprised of different traditional pharmacies and community organisations. The Network has worked to protect plants used for traditional medicine through sustainably collecting wild plants, cultivating medicinal plants, introducing self-

[74] Constitution of the Federative Republic of Brazil of 1988 (Accessed: https://www.globalhealthrights.org/wp-content/uploads/2013/09/Brazil-constitution-English.pdf).

[75] See, for example, R Alves, T Oliveira and I Rosa 'Wildlife Animals Used as Food Medicine in Brazil' 13 (2013) *Evidence-Based Complementary and Alternative Medicine*; R Alves 'Fauna used in popular medicine in Northeast Brazil' 5(1) (2009) *Journal of Ethnobiology and Ethnomedicine*; R Alves 'Relationships between fauna and people and the role of ethnozoology in animal conservation' 1(2) (2012) *Ethnobiol Conserv*.

[76] R Alves (2012) .

regulation and best practices for traditional healing practices in the absence of formal regulatory frameworks, and compiling a pharmacopoeia of indigenous plants. This includes nearly 400 pages describing plant-based remedies, their uses, preparation techniques and the cultural contexts in which they are applied. The pharmacopoeia aims to ensure political and social recognition of the traditional use of plants and aims to prevent biopiracy. Through these efforts, traditional healing practices are not only regulated and documented, but also generate income for traditional healers.[77]

Stakeholders have also begun to reframe traditional medicine not as an obstacle to conservation, but as a potential bridge between human well-being and biodiversity protection. Because traditional knowledge often includes a deep understanding of local ecosystems, these practices can align with sustainable-use principles.[78] Brazil's experience therefore demonstrates that wildlife use in traditional medicine does not need to be framed solely as a conflict between conservation and culture. Instead, there is a growing possibility of reconciling cultural continuity with ecological sustainability by valuing and strengthening traditional knowledge and fostering a sense of stewardship among healers.

Figure 1: Pacari Network is approximately 90 per cent women, many of whom benefit from employment opportunities in community pharmacies. Those wishing to become involved in the community pharmacies are required to undergo 200 hours of class to learn best practices in the use and management of medicinal plants. These women are tending to medicinal plants. (Source: Pacari Network)

8.5 China

China illustrates the challenges of regulating a state-sanctioned traditional medical system that relies on endangered species. Traditional Chinese Medicine (TCM) is a sophisticated, centuries-old, and highly institutionalised system of holistic healthcare. Its foundations differ from Western biomedicine, emphasising the balance of the body's internal energies – Qi, Yin, and Yang – through practices including acupuncture, natural remedies, dietary therapy, and massage.[79] Unlike many indigenous knowledge systems that have been marginalised under colonial and modernising pressures, TCM enjoys

[77] United Nations Development Programme '*Pacari Network, Brazil*' (2013) Equator Initiative Case Study Series.
[78] R Alves, T Oliveira and I Rosa (2013).
[79] LC Matos, J Pereira Machado *et al* 'Understanding Traditional Chinese Medicine Therapeutics: An Overview of the Basics and Clinical Applications' 9(3) (2021) *Healthcare* (Basel).

strong state support.[80] It is formally taught in universities, practised in hospitals, and embedded in national health policies and insurance schemes, providing legitimacy and wide-scale integration of traditional knowledge systems.[81]

The Law on Traditional Chinese Medicine of 2017 is the primary law regulating TCM, while the Drug Administration Law of 2019 regulates the manufacturing, distribution and preparation of all medicines, including TCM. The official Pharmacopoeia of the People's Republic of China codifies TCM ingredients, including plant-based remedies, minerals, and a limited number of animal-derived products.[82] Wildlife used in TCM is regulated by the Wildlife Protection Law, which was revised in 2022 and prohibits the wild harvesting of certain species and requires permits for others. In 1987, China also issued the Regulation on the Protection of Wild Medicinal Resources to ensure the sustainable harvesting of these resources.[83]

Although animal-based ingredients form only a small proportion of the pharmacopoeia, demand for certain species is driving global IWT.[84] This is closely linked to growing demand for TCM both locally and abroad, which is driven by a growing Chinese population and active promotion of TCM by the Chinese government through various national and international policies, such as the Outline of the Strategic Plan on the Development of Traditional Chinese Medicine (2016–2030) and the Traditional Chinese Medicine 'Belt and Road' development plan (2016–2020).

A well-known example of the tension between conservation aims and the use of wildlife for medicinal purposes is the use of pangolins.[85] Pangolins are the most trafficked mammals globally, with all eight species ranging from vulnerable to critically endangered, according to their IUCN Red List classifications.[86] The primary driver of this pressure is demand from East Asia, especially China, where pangolin scales are used to treat a wide range of ailments.[87]

Rising domestic demand in China, coupled with the near extirpation of Asian pangolin species, has shifted the harvesting of pangolins to Africa. Most illegally sourced scales now originate from Africa, creating illicit supply chains linking African biodiversity with Chinese consumers. This underscores a long-standing tension in China's conservation

[80] M Hua, J Fan, H Dong *et al* 'Integrating traditional Chinese medicine into Chinese medical education reform: issues and challenges' 13(8) (2017) *International Journal of Medicinal Education*.
[81] M Hua, J Fan *et al* (2017).
[82] Z Liu, J Zhao, Y Wang *et al* 'Comparative study on registration application of proprietary Chinese medicine in the Guangdong-Hong Kong-Macau Greater Bay Area of China' 17 (2024) *Journal of Pharmaceutical Policy and Practice*.
[83] Y Wang, S Turvey and N Leader-Williams 'Global biodiversity conservation requires traditional Chinese medicine trade to be sustainable and well regulated' *Glob Chang Biol*. 2022 Dec; 28(23):6847-6856. doi: 10.1111/gcb.16425.
[84] D Su, K Wu and A Nie 'China's Legal Protection System for Pangolins: Past, Present, and Future' 15 (2025) *Animals*.
[85] D Su, K Wu and A Nie (2025).
[86] D Su, K Wu and N Nie (2025); IUCN Red List (Accessed: https://www.iucnredlist.org/search?query=pangol&searchType=species).
[87] D Su, K Wu and A Nie (2025).

framework: while the state has made international and domestic conservation commitments, it has simultaneously allowed the use of endangered species in TCM.[88]

Historically, China maintained a highly regulated domestic market for pangolin scales, managed through state stockpiles, annual quotas, licensing, and restrictions on patented medicine production.[89] Although designed to control supply, loopholes still allowed illegally sourced scales to enter the legal market, complicating enforcement and sustaining illegal harvesting in Africa. The challenge is ultimately driven by deeply entrenched cultural demand. Pangolin scales are perceived as essential for health and healing, which makes consumer behaviour resistant to regulation. Many consumers and practitioners believe that wild-sourced scales are inherently more potent than plant-based or synthetic alternatives, a perception that persists despite limited scientific evidence. This belief is reinforced by trust in TCM practitioners, whose prescriptions influence patient behaviour.[90]

Addressing such entrenched demand requires a multi-layered strategy. To mitigate the pangolin trafficking crisis, China removed pangolin scales from the national health insurance reimbursement list and the Pharmacopoeia for new patented medicines[91] in 2020. However, despite the removal, pangolin scales still appeared in medicine formulas and processing standards[92] and an annual pangolin scale quota for medicinal use remains. In 2025, China announced that its pharmacopoeia would remove all pangolin-related products. Removing pangolins from the pharmacopoeia however is not legally binding, causing some to question its ultimate effectiveness.[93] Whether this removal will impact consumer attitudes towards using pangolins in TCM also remains to be seen. So too, the impact of these measures on the illegal market.

Nonetheless, the removal signals that the state no longer endorses the clinical necessity of pangolin products, reducing their perceived legitimacy and economic value. Among practitioners, professional education and awareness campaigns have highlighted the conservation status of pangolins, equipping doctors to prescribe non-pangolin alternatives.[94] Consumer-focused interventions must be culturally sensitive, while promoting substitutes for over-exploited threatened species. For example, research in southern China has generated robust evidence on consumer behaviour, motivations, and decision-making, informing campaigns designed to resonate with health concerns while protecting biodiversity. By combining awareness-building, culturally acceptable alternatives, and leveraging trusted medical voices, such interventions aim to shift behaviour without alienating practitioners or patients.[95]

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[88] D Su, K Wu and A Nie (2025).
[89] Y Wang, S Turvey and N Leader-Williams (2022).
[90] D Su, K Wu and N Nie (2025).
[91] D Su, K Wu and N Nie (2025).
[92] Wang Y, Turvey ST, Leader-Williams N '(2022); Fabro KA 'China drops pangolin formulas from approved TCM list, but concerns remain', 2025 *Mongabay* ((Accessed: https://news.mongabay.com/2025/05/china-drops-pangolin-formulas-from-approved-tcm-list-but-concerns-remain/).
[93] KA Fabro 'China drops pangolin formulas from approved TCM list, but concerns remain' (2025) *Mongabay* (Accessed: https://news.mongabay.com/2025/05/china-drops-pangolin-formulas-from-approved-tcm-list-but-concerns-remain/).
[94] D Su, K Wu and N Nie (2025).
[95] Y Wang, S Turvey and N Leader-Williams (2022).

China's experience demonstrates the need for integrated traditional health legal frameworks and strategies that combine professional engagement, conservation science and behavioural interventions where species are unsustainably used. While legislation is critical, both for recognizing the legitimacy of traditional healing and to regulate sustainable specie use, it is insufficient without addressing cultural beliefs and professional authority that drive unsustainable demand. Long-term reduction of IWT requires the continuous removal of threatened species from the pharmacopoeia and insurance schemes, accompanied by sustained engagement with practitioners and consumers to reshape attitudes and behaviours.[96]

The case also underscores the global dimensions of wildlife conservation. Demand in one region, even if culturally informed and sanctioned by governments, can drive cross-border exploitation. Effective conservation therefore requires international cooperation, cross-border monitoring, and culturally informed strategies that account for consumer motivations, supply chain dynamics, and deeply held health beliefs. Ultimately, China's regulation of TCM and endangered species demonstrates the need to balance cultural heritage, healthcare, and biodiversity protection. It highlights the influence of professional authority, consumer belief systems, and institutional structures on conservation outcomes.

8.6 Zimbabwe

The regulation of traditional healing and associated practices is more formally institutionalised in Zimbabwe than in many African jurisdictions, with a legislative framework aimed at recognising and governing traditional practitioners. The Traditional Medical Practitioners Act of 1981 provides for the registration, regulation, and oversight of traditional healers.[97]

The Act establishes the Traditional Medical Practitioners Council, mandated to supervise and control the practice of traditional medicine, promote its development, and maintain a register of practitioners. Only registered practitioners may legally practise for gain, and unregistered practice is prohibited. This reflects an early policy position – adopted soon after independence in 1980 – of integrating traditional medicine into broader public health frameworks, including through cooperation with healer associations, such as the Zimbabwe National Traditional Healers Association (ZINATHA), which was established in 1980 with the support of the Zimbabwean government.[98]

The Act provides for herbalists, spirit mediums, faith healers, and other categories of practitioners. Recent regulatory efforts have reinforced this approach, requiring a wide range of actors, including distributors, manufacturers, and training institutions, to

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[96] Y Wang, S Turvey and N Leader-Williams (2022).

[97] Government of Zimbabwe, *Traditional Medical Practitioners Act of 1981* (Accessed: https://zimlii.org/akn/zw/act/1981/38/eng@2016-12-31); World Health Organization, *'WHO traditional medicine strategy 2002-2005'* (2002). (Accessed: https://iris.who.int/server/api/core/bitstreams/9774b886-5db5-4962-95c6-7ed62de20a6c/content)

[98] GL Chavunduka. '*Traditional Medicine in Modern Zimbabwe'* (1994) University of Zimbabwe Publications, Zimbabwe. The Government of Zimbabwe played a pivotal role in the formal creation and recognition of ZINATHA. Traditional healers formed the association on July 12, 1980, and the government facilitated its official standing. The government created ZINATHA as part of a strategy to restore respect for cultural beliefs and traditional healing practices, which had been suppressed under colonial rule.

register with the Council, signalling an attempt to regulate the entire traditional medicine value chain.[99]

Following from the Traditional Medical Practitioners Act is the Zimbabwe National Traditional Medicine Policy of 2007. The policy aims to formally recognise, develop, and integrate traditional medicine into the national healthcare system. It seeks to ensure the safe, effective, and regulated practice of traditional medicine, including the registration and licensing of practitioners, while promoting research, documentation, and standardisation of traditional remedies. The policy further emphasises the preservation and protection of indigenous knowledge systems, alongside improving access to traditional healthcare and fostering collaboration between traditional and biomedical practitioners to enhance overall public health outcomes.[100]

However, while the Act and policy provide a clear framework for who may practise traditional healing, it does not directly regulate the use of wildlife in traditional medicine. Instead, these aspects are governed through Zimbabwe's environmental and wildlife legislation. Key lawsinclude the Environmental Management Act 13 of 2002, which establishes principles of sustainable natural resource use; the Forest Act 19:05, which governs the use of forest products, including medicinal plants, and the Parks and Wildlife Act 14 of 1975, which regulates the harvesting, use, and trade of wildlife. Section 43 of the Parks and Wildlife Act prohibits hunting and other restricted activities related to specially protected animal without a permit, while Section 51 provides that no persons may pick any specially protected indigenous plant without a permit. Traditional medicine, IPLC and traditional practices or uses are not explicitly mentioned in the Act.

As a result, similar to South Africa, Zimbabwe's legal framework reflects a regulatory separation between the practice of healing and the sourcing of wildlife. While traditional healers are formally recognised and regulated as practitioners, their access to and use of biodiversity resources is subject to separate permitting, conservation, and sustainability requirements. This creates both opportunities and gaps: the system supports practitioner legitimacy and livelihoods but does not fully integrate biodiversity governance with the realities of traditional medicine use.

8.7 Guinea-Bissau

In Guinea-Bissau, customary and indigenous use of natural resources, including for traditional medicine, is recognised in law and practice, although not comprehensively regulated. The Forest Law (Decree-Law No. 5/2011) acknowledges that the harvesting of resources such as medicinal plants is governed by customary norms and enables the Ministry to institute regulations on the collection of forest products by local communities. The Wildlife Law (Decree-Law No. 2/2004) establishes the basic norms for protection, promotion and exploitation of wildlife, while the Protected Areas Law (Decree-Law No. 3/1997) permits local communities to use natural resources for subsistence and limited commercial purposes.[101] It establishes three overarching

[99] World Health Organization (2013).
[100] Zimbabwe National Traditional Medicine Policy (2007).
[101] OMJ Kasilo, C Wambebe, J Nikiema *et al* 'Towards universal health coverage: advancing the development and use of traditional medicines in Africa' 4(9) (2019) *BMJ Glob Health*; E Deme, G Touron-Gardic & P Failler 'Tradition and Conservation: Users' Perceptions of Traditional Pharmacopoeia in West African Protected Areas' 53 (2025) *Hum Ecol*.

objectives for protected areas, which includes research and the acquisition of scientific and traditional knowledge about the environment in general, with particular emphasis on traditional practices that respect the environment.

Similarly, the Fisheries Law (Decree-Law No. 3/1997) regulates access to marine and aquatic resources through a permit and licensing system, requiring prior authorisation for fishing activities. Within this framework, small-scale and artisanal fishers – often consisting of IPLCs- are generally allowed to continue traditional and subsistence fishing practices, albeit subject to regulatory controls, designated fishing zones, and sustainability safeguards. While the law does not comprehensively codify customary fishing rights, it implicitly accommodates traditional uses by recognising artisanal fishing as a distinct category and by allowing community-level access within regulatory regimes.[102] These frameworks therefore recognise and accommodate customary and traditional practices of IPLCs, particularly for subsistence and local use, but simultaneously regulates it through permit systems.

An example of regulated traditional use is illustrated in the case of vultures, which face declines across West Africa, driven largely by belief-based use in traditional medicine and spiritual practices.[103] This demand, compounded by mass poisoning events and indiscriminate killings, pushed populations to the brink of collapse, highlighting the urgent need for culturally informed conservation interventions.[104] In response, Birdlife International launched a project aimed at shifting the behaviour of local communities while respecting cultural practices.[105]

The initiative recognised that enforcement alone would not address the cultural and economic drivers behind the use of vultures.[106] Instead, it engaged traditional healers, community leaders, local organisations and other groups through social marketing, community dialogue, and the promotion of culturally acceptable alternatives.[107] The approach was evidence-based and informed by surveys and focus group discussions that mapped out knowledge, attitudes, and practices related to vultures and their use.[108] 95% of surveyed traditional healers were aware of the use of vulture parts, and most participants recognised the decline in vulture populations.[109]

Using the results from the surveys, the project developed campaigns that engaged communities through village meetings, radio programmes, and dialogues with healers and cultural leaders. These emphasised the ecological and public health importance of

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[102] Government of Guinea Bissau '*Process Framework for the Restriction of Access to Natural Resources*' (2010) (Accessed: https://documents1.worldbank.org/curated/en/981111468251974977/pdf/RP106300SF1AFR101public10BOX358364B.pdf#:~:text=the%20controlling%20legislation%20for%20protected%20areas%20in,overarching%20objectives%20for%20protected%20areas:%201)%20conservation).

[103] Illegal Wildlife Trade Challenge Fund '*Changing behaviour to protect vultures'* (2025) (Accessed: https://iwt.challengefund.org.uk/news/2025/10/21/changing-behaviour-to-protect-vultures/).

[104] BirdLife International '*Behaviour change approaches to address belief-based use of vultures'* (2025) Illegal Wildlife Trade Challenge Fund (2025).

[105] Illegal Wildlife Trade Challenge Fund (2025).

[106] Birdlife International (2025).

[107] Illegal Wildlife Trade Challenge Fund (2025).

[108] Birdlife International (2025).

[109] Illegal Wildlife Trade Challenge Fund (2025).

vultures, such as their role in cleaning carcasses and preventing disease, while also promoting plant-based remedies as viable and effective alternatives to vulture parts.[110] This approach began to reshape attitudes: healers reduce or stop their use of vulture parts, and community members began to appreciate the value of protecting the species rather than exploiting it. The campaigns also linked conservation to national pride and shared cultural heritage, framing vulture protection as a responsibility that benefited both people and ecosystems.[111]

The project also provided alternative livelihoods for those previously involved in vulture trade, working towards behavioural change through economic incentives. When the project concluded, there was evidence of shifts in knowledge, attitudes, and practices related to vultures. Communities reported increased recognition of vulture population declines and greater awareness of their ecological roles, while healers expressed willingness to adopt plant-based alternatives. Where trade persisted, it was reported as risky and less profitable. Market surveys also showed the reduced availability of vulture parts,[112] although the causes of this need to be ascertained.

The experience in Guinea-Bissau demonstrates that belief-based wildlife use that is unsustainable, even when deeply rooted in tradition and spiritual practice, can be influenced through carefully designed interventions that respect cultural values while promoting ecological awareness, thereby helping to conserve vultures in one of their last remaining strongholds.

Figure 2: Vulture Awareness Campaign. Source: IWTCF.

8.8 Namibia

Section 19 of the Namibian Constitution of 1990 provides that every person is entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion. Section 95(l) further provides that "the State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at [...] maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future." This provides the foundation for the recognition of

[110] Birdlife International (2025).
[111] Illegal Wildlife Trade Challenge Fund (2025).
[112] Illegal Wildlife Trade Challenge Fund (2025).

indigenous knowledge systems and traditional practices within Namibia's legal and environmental governance framework.

Unlike in South Africa and Zimbabwe, Namibia's traditional healers do not yet enjoy formal recognition or regulation. While the Traditional Health Practitioners Bill was tabled in 2014, is has not been promulgated,[113] possibly reflecting the intricacies of attempting to regulate a customary and cultural practice.[114] Wildlife harvesting and use are regulated through permit systems including the Nature Conservation Ordinance 4 of 1975, the Forest Act 12 of 2001 and the Controlled Wildlife Products and Trade Act 9 of 2008. Of these acts, the only reference to customary use is in Schedule 1 of the Controlled Wildlife Products and Trade Act, which allows for the possession or transfer of ivory carvings in accordance with the customary law or the long-standing customs of any group of people indigenous to Namibia.

The Access to Biological and Genetic Resources and Associated Traditional Knowledge Act of 2017 provides for the implementation of the CBD's Nagoya Protocol and explicitly recognises the rights of local communities over associated traditional knowledge.[115] While the Act does not mention traditional medicine, it defines traditional knowledge broadly to include knowledge, practices and innovations developed and transmitted across generations. Sections 1 and 5(2) affirm that such knowledge is collectively held by local communities. It further requires prior informed consent from the relevant right holders before access may be granted (Section 9) and mandates access and benefit-sharing agreements to ensure equitable sharing of benefits.

Section 6 establishes the Biological and Genetic Resources and Associated Traditional Knowledge Office, which is responsible for administering permits, overseeing compliance, and facilitating engagement between communities and external users. The Act expressly recognises customary law as a valid source of rights, with Section 13 providing that community intellectual property rights are protected "whether such law is written or not", and that traditional knowledge must be identified and interpreted in accordance with customary practices. Section 12 also affirms the rights of communities to use, control, and benefit from their knowledge systems in line with their own traditions, thereby reinforcing the application of indigenous governance systems alongside statutory law.

This recognition is further supported by the Traditional Authorities Act 25 of 2000, which formally recognises traditional authorities as legitimate governance institutions with powers to administer customary law, including matters relating to culture, traditions, and the use of natural resources within their communities. Traditional authorities therefore play a critical role in granting consent, regulating access, and representing community interests in processes involving traditional knowledge and biological resources. In

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[113] A du Toit and C Pretorius 'Seizures in Namibia: A study of traditional health practitioners' *Epilepsia Open*. 2018 Jul 10;3(3):374-382. doi: 10.1002/epi4.12240. PMID: 30187008; PMCID: PMC6119750.

[114] AL Abrams, T Falkenberg, C Rautenbach, M Moshabela, B Shezi, S van Ellewee and R Street 'Legislative landscape for traditional health practitioners in Southern African development community countries: a scoping review' 7(10) (2020) *BMJ Open*. doi: 10.1136/bmjopen-2019-029958.

[115] Hans Seidel Foundation '*Namibia's Access to Biological and Genetic Resources and Associated Traditional Knowledge Act and the Protection of Local Communities'* (2023) (Accessed: https://www.lac.org.na/projects/lead/Pdf/ABS_Act_and_Protection_of_Local_Communities-2023.pdf)

addition, Namibia's community conservancy system, established under the Nature Conservation Amendment Act 3 of 2017 enables rural communities to manage and benefit from wildlife and other natural resources on communal land. These conservancies are often grounded in customary governance structures and rely heavily on indigenous knowledge systems for sustainable resource management.[116]

Together, these frameworks illustrate a multi-layered approach in which constitutional cultural rights, access and benefit-sharing mechanisms, and customary law institutions like traditional authorities operate in tandem. Namibia's legal system therefore recognises the authority of customary law and imbeds traditional knowledge within community-based governance systems.

8.9 Zambia

While not a legal case study, Zambia offers an example of recognizing cultural use while ensuring environmental sustainability.

Zambia's Lozi people utilize leopard and serval skin skirts (*Lipatelo*), along with lion mane headpieces (*Mishukwe*), as regalia during the annual Kuomboka and Kufuluhela ceremonies hosted by the Barotse Royal Establishment (BRE).[117] During the Kuomboka ceremony, paddlers are responsible for moving their king, the *Litunga*, and his family, from the flooded Barotse Floodplain to higher ground. While an estimated 200 paddlers participate in the key events, surveys indicated that many more Lozi men acquire a *Lipatelo* in the hope of being selected to paddle.[118] Lozi men would purchase the skins needed from illegal harvesters and traders or hunt the animals themselves, resulting in hundreds of wild cats being harvested annually.[119]

Figure 3: The Lozi people's Royal Paddlers in Zambia, who participate in the annual Kuomboka ceremony. Source: Panthera

[116] Pro Bono '*Role of Traditional Authorities in Promoting Sustainable Use of Namibia's Natural Resources*' (n.d) (Accessed: https://www.lac.org.na/news/probono/ProBono_46-TAs_NATURAL_RESOURCES.pdf).
[117] Panthera '*Furs for Life*' (2025) (Accessed: https://panthera.org/furs-for-life). The Kuomboka ceremony is an annual traditional event, marking the ceremonial movement of the Litunga (king) from the flooded plains of the Zambezi River to higher ground at the end of the rainy season. The Kufuluhela ceremony is a traditional ritual, involving spiritual practices and offerings that seek protection, healing, and harmony with ancestral and natural forces. The Lipatelo and the Mishukwe are essential to these ceremonies.
[118] Africa Geographic '*Saving Spots – a new initiative to protect wild cats in southern Africa*' (2019) (Accessed: https://africageographic.com/stories/saving-spots-new-initiative-to-protect-wild-cats-southern-africa/.
[119] Panthera '*Furs for Life – Preserving Culture, Preserving Nature*' (2025) Illegal Wildlife Trade Challenge Fund.

Figure 4: The Lozi King's barge, or Nalikwanda, with paddlers adorned in animal skins in 2018. Source: Panthera

In response to this, the Panthera organisation established the 'Saving Spots' programme (part of the larger Furs for Life project). This initiative is based on a demand-reduction approach that provides high-quality, synthetic fur alternatives known as Heritage Furs to the Lozi people. Since the programme's inception, the BRE has received over 750 synthetic leopard and serval *Lipatelo* and 600 synthetic lion-mane *Mishukwe*, to replace the use of authentic furs.[120]

The 2024 Kuomboka ceremony saw a 96% Heritage Fur use by the paddlers on the royal barge, while surveys targeting paddlers showed that 79% of Lozi paddlers no longer wished to acquire wild cat skins now that Heritage Furs are available.[121] The project also trained Lozi women in tailoring skills, enabling them to establish micro-enterprises. This allowed trained Zambian tailors to increase their average monthly income. Encouragingly, 14 of 16 surveyed tailors reported that family members had also ceased illegal harvesting activities.[122]

Building on the success of Saving Spots, the Ngoni Royal Establishment (NRE) of Eastern Zambia was engaged by Panthera, with the leadership formally adopting the Heritage Furs and wearing them publicly. The change in behaviour and acceptance of these alternative synthetics by the Lozi people is attributed to the deep, integrative partnership and official endorsement of the Heritage Furs initiative by the BRE, including the *Litunga,* the *Kuta* (traditional committee), and the *Ngambela* (Prime Minister), which legitimised the materials within the cultural context of the Lozi people. This leadership sanction was vital in maintaining the integrity of cultural ceremonies while ensuring the conservation of threatened wild cat populations.[123]

9 Conclusion

The VOICES Project highlights the need to reconcile biodiversity conservation with the cultural realities of traditional healing and traditional medicine use in South Africa. Current legal frameworks, while progressive in parts, fail to fully integrate indigenous

[120] Panthera (2025).

[121] Panthera '*Heritage Furs - Lozi: Preserving Tradition in the Kuomboka and Kufuluhela Ceremonies*' (accessed at https://panthera.org/heritage-furs#:~:text=With%20conservation%20at%20the%20heart,barge%20were%20wearing%20Heritage%20Furs).

[122] Panthera (2025).

[123] Panthera (2025).

knowledge and practices, resulting in regulatory gaps, enforcement challenges, and continued tension between conservation and cultural rights. This reflects the reality in many other countries where traditional medicine and indigenous use co-exist with Western medicine systems and environmental laws that seek to protect species from unsustainable use.

To bridge this divide, a shift toward inclusive, participatory environmental governance is essential. Recognising traditional healers and other stakeholders as key partners in conservation, rather than mere subjects of regulation, will create opportunities for sustainable wildlife use, improved compliance, and strengthened cultural legitimacy. Drawing on both local realities and international examples, long-term conservation success depends not only on legal reform, but on the meaningful engagement and inclusion of indigenous knowledge systems.

Ultimately, a decolonised and integrated legal approach, when complimented by other measures aimed at sustainable use, can support both biodiversity protection and cultural continuity, ensuring that conservation efforts are socially just, contextually relevant, and ecologically sustainable.

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1AFR101public10BOX358364B.pdf#:~:text=the%20controlling%20legislation%20for%20protected%20areas%20in,overarching%20objectives%20for%20protected%20areas:%201)%20conservation).

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