



# **Policy Implications for Intellectual Property Systems for Traditional Healers in Lesotho**

**African Technology Policy Studies Network  
Biotechnology Trust Africa  
TECHNOPOLICY BRIEF | No. 37**

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Published by the African Technology Policy Studies Network  
P O Box 10081, 00100 GPO Nairobi Kenya

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ISBN: 978-9966-030-44-3



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# Acknowledgement

This paper was produced as part of the implementation of the ATPS phase VI Strategic Plan, 2008-2012 funded by ATPS Donors including the Ministerie van Buitenlandse Zaken (DGIS) the Netherlands, Rockefeller Foundation, Open Society Foundation, UNESCO, European Union, African Union, amongst others. The authors hereby thank the ATPS for the financial and technical support during the implementation of the Intellectual Property Program. The authors particularly thank the Executive Director of the ATPS Prof. Kevin Urama for his visionary leadership and all members of his team at the ATPS. We are also grateful to the Programme Coordinators including Mr. Joseph Wekundah of the Biotechnology Trust Africa, Dr. Maurice Bolo (ATPS), Dr. Nicholas Ozor (ATPS), Prof. Moni Wekesa (Mount Kenya University) for their technical supports to the Programme.



# Background

Traditional Medicine is one of the important parts and puzzles of the Basotho daily lives since pre-historic times. In the ancient times, every village had a traditional healer and his house was located near the chief's main house. Traditional healers remain popular because they are accessible, affordable, adaptable and culturally familiar and thus acceptable and respected in the wider community. The emergence of various diseases like HIV and AIDS, TB and other difficult to cure illnesses has resulted into a large number of people working as traditional healers. Traditional healers have their own organization, which amongst others, offers certificates to the traditional healers. However, the majority still operate without the organization's endorsement; as what it offers is more of membership than competence certificates.

The study was done in the form of interviews which were conducted in the seven low lands districts of Lesotho; traditional healers and members of the community found in the villages were interviewed. Focus Group discussions were also conducted in some selected parts of the chosen districts; the traditional healers, village councilors and the chiefs were part of the forum. The interviews of the key informants targeted departments and civil societies engaged in biodiversity conservation, Policy formulation, Health safety, HIV and AIDS and Consumer rights protection issues.

## Key Concerns

The data, gathered from the traditional healers in the villages; and the communities that are regarded as beneficiaries; Focused group discussions; and the key informants, were analyzed and the following concerns were revealed.

### **Loss of Biodiversity**

The majority of the doctors (over 86%) admitted that they are now faced with serious declining resources for traditional medicine. They attributed the decline to the unlicensed bogus healers from the urban areas who either go into the rangelands where the herbs usually grow or hire the herdsman to dig them and pay them. The concerns with these healers were that: they don't leave anything for the herb to re-grow as they use spades to remove the whole plant;

furthermore, they don't leave anything for the community as the fees paid to the herdsman are quite disappointing. Harvesting of these herbs also includes those protected by the environment act of 2008. Below is a picture of bags of traditional medicine harvested in the villages ready to be transported into the cities.



*Source Lesotho Fourth CBD Report*

### **Figure 1: Harvesting of traditional medicines**

#### **Traditional Medicine Safety Concerns**

There were concerns that were particularly related to the mushrooming of people selling traditional medicine already mixed claiming to cure certain diseases. The concern was on the dosage levels and the ingredients used in the preparation of such medicine. It is common understanding that; for traditional medicine to be effective it must have a very bitter taste. The concern was that these people might mix some poisonous materials which are not necessarily herbs and sell it to people especially in the face of declining resources for traditional medicine.

#### **Storage and Preservation Concerns**

Beneficiaries showed serious concerns over the way in which traditional herbs are kept especially those that are found in the streets of the cities. They are always kept on dirty surfaces, exposed to dust, sunlight and rain. They are worried that



these conditions may reduce the effectiveness of the medicine and most importantly result into some pathogens getting entry into such medicines and exacerbate the illness instead of curing it. Again, they showed concern on the packaging of liquid medicine which is normally done in containers previously used for other purposes; thorough cleaning before reuse is a concern.

### **Unclear Certification Process**

It was discovered during the studies that healers are not subjected to any competence test before being awarded traditional healers' certificates. Furthermore, it is not mandatory that for one to practice as a healer he/she must be a holder of such a certificate. Therefore, their certificates serve as membership certificates; any association's interest is to increase its membership. This being the case it is possible that awarding of certificates is done without any scrutiny to the morals and the competence of the individual being a healer.

### **Lack of Cooperation between Traditional Healers and Modern Doctors**

The majority of traditional healers (>75%) indicated that there are no work relations with the modern doctors; despite the fact that they serve the same clients. This also came up during the focus group discussions that were conducted. Traditional healers believed that modern doctors do not want to recognize their healing capacities. This sour relationship puts the patients that consult them first at a disadvantage as some modern doctors either refuse to accept them or harass them before treating them. However, it is surprising that the same doctors together with the pharmacists and nurses come to them during awkward hours when confronted with witchcraft or bad luck.

### **Ignorance About HIV & AIDS**

It came as a surprise that more than twenty five years since the discovery of HIV, in Lesotho, strategically placed people within the society like the traditional healers still don't believe in HIV/AIDS. More than 50% of the traditional healers don't believe there is a disease called HIV and AIDS. This is really shocking considering the fact that besides their daily work as healers they are also directly involved in the schools of traditional circumcision.

## **Lack of Intellectual Property Policy Related to Traditional Medicine**

It became evident during the key informants' interviews; and the literature review on legislations related to access and benefit sharing and patenting; that traditional medicine is not included at all amongst the innovations that could be protected. The two copies provided by the Law office: Industrial Property Order, 1989 and Copyright Order, 1989 stated very clearly that any form of medicine or procedures meant for human or animal curing are excluded in patenting.

## **Conclusion**

Traditional healers play a pivotal role in the lives of Basotho. But with the emergence of HIV and AIDS pandemic, their activities have threatened the countries biodiversity seriously. There are certain species facing extinction. Furthermore, there has been a general outcry from Non-Governmental Organizations within the country concerning safety and the hygienic way relating to traditional healers. These include display of herbs directly to the sun and bogus healers who just storm in the market as fortune seekers. Based on lack of cooperation between modern scientific doctors and traditional healers, the lives of people are in danger due to the ignorance of a significant number of indigenous healers. This danger is brought by the alarming rate posed by the tremendous spread of the pandemic. Surely, there has to be clear policies governing the institutions of traditional medicine men holistically, in order to protect their rights, protect lives of their clients and the country's environment as a whole.

## **Policy Recommendations**

The recommendations emanating from this study are solely intended to have positive impact on the lives of Basotho nation as a whole, not to antagonize any institution.

### **Enforcement of Environment Act, 2008**

The main purpose of this act is to protect the environment, particularly the endangered species. However, it has come to our notification that most of the community leaders are not aware of the existence of the act.

- > The effectiveness of the local Councilors on environment protection has to be increased by sensitizing them and encouraging periodical or quarterly inspection of their wards in order to ensure that the environment is still kept intact.
- > Head boys mobilization and sensitization; these are people who are close to the environment. They also engage in activities of up-rooting and burning of the environment, therefore they should be included in massive campaigns aimed at environmental protection.
- > Low fertile and eroded fields should be turned into community botanical gardens as a way of re-claiming the lost land due to soil erosion.

### **Safety Measures**

For the purposes of ensuring the safety of the traditional healers' clients; there has to be a clear certification and standardization process aimed at discouraging bogus healers. This should clearly stipulate that nobody should be allowed to practice as a healer unless he/she holds the appropriate certificate. Also, for hygienic purposes, there should be an inspection of the site before awarding surgery licenses, the inspection should include; safety equipment, ablution facilities, preservation facilities and packaging materials.

### **The Platform for Dialogue**

There has to be a form of dialogue between traditional and modern scientific doctors for the purpose of enhancing cooperation between the two parties. Modern doctors have to acknowledge and recognize the pre-historical existence of traditional healers within the Basotho nation.

### **HIV & AIDS Pandemic**

The traditional healers should be offered special training on this aspect. The training should cover modes of transmission, diagnosis, prevention and treatment. It has been demonstrated that these require sophisticated and complex equipment. Thus if they understand these aspects, there is a high likelihood of reducing the rate of HIV and AIDS infections and related deaths. Furthermore, the counseling skills of traditional healers should be strengthened in order to facilitate the challenges posed by the prevalence of the pandemic and the subsequent testing and intake of ARVS.

### **Lack of Intellectual Property System Policies**

There should be clear policies protecting traditional knowledge system as a whole. This will also make it easy for them to disclose their knowledge freely. Such policies should include methods for treatment of the humans and animals by the traditional healers as well as their diagnostic methods in disease treatment as excluded in the Industrial Property Order, 1989. Section 1 Part 11 4(d).







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for African Development**

ISBN: 978-9966-030-44-3