

UNLOCKING ECONOMIC POTENTIAL: HOW LIMITED INTELLECTUAL PROPERTY AWARENESS CONSTRAINS TRADITIONAL MEDICINE IN UGANDA

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Date 17th . 05 . 2025

Submitted with my consent

Supervisor Lastone Gulume

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Date 20th May 2025

APPROVAL

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I certify that this essay report by Kirabo Katimbo Shantal has been supervised, approved and submitted to UGANDA CHRISTIAN UNIVERSITY in line with the University guidelines under my expert supervision and approval

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MR. BALLYAINHO LASTONE GULUME

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DEDICATION

Dedicated to Ugandans calling upon them to protect cultural heritage, especially to the few people commendable for recognizing and boldly harnessing the immense economic potential of our vibrant cultural heritage through various initiatives, this profound realization is the vital key to unlocking Uganda's full potential for national growth and shared prosperity.

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ABSTRACT

This work addresses the critical challenge of safeguarding Uganda's Traditional Medicine (TM).

While TM is a vital healthcare resource and a cornerstone of the nation's cultural heritage, its significant economic potential remains largely unrealized.

Despite Uganda's existing Intellectual Property (IP) policies and international commitments, key gaps persist. These include slow legal operationalization and a fundamental incompatibility between conventional IP systems and the communal, orally transmitted nature of traditional knowledge. This situation is worsened by a widespread lack of IP awareness among traditional healers and insufficient documentation of their knowledge.

This deficit in IP awareness directly impedes equitable commercialization and heightens the threat of biopiracy. Foreign entities can exploit these vulnerabilities to appropriate communally owned knowledge without compensation, eroding indigenous sovereignty and cultural identity.

The core purpose of this study is to propose effective IP protection strategies for Traditional Herbal Medicine in Uganda. This aims to ensure both economic empowerment and the enduring preservation of cultural heritage.

It advocates for adapting successful global models to Uganda's unique socio-cultural and economic context through expedited policy implementation, targeted IP capacity building, and robust benefit-sharing mechanisms.

CHAPTER ONE

1.1 Introduction

It is estimated that 80% of many African states like Uganda's population depends on traditional medicine because it is accessible, affordable and culturally familiar.

Herbal remedies have historically been utilized to address various health issues, including malaria, respiratory and digestive disorders, toothaches, skin conditions and complications during child birth.¹

Ugandan communities have depended on traditional knowledge passed down through generations to diagnose illness and create treatments from natural ingredients and overtime traditional methods have gained trust among the public.²

Traditional medicine has been defined as the sum of the knowledge, skills and practices based on theories, beliefs and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health and the prevention, diagnosis, improvement or treatment of physical and mental illness.³

Traditional medicine has also been interpreted as a body of knowledge relating to natural resources, particularly biodiversity. A key aspect is the respect, preservation

¹ WHO Traditional Medicine Strategy 2002-2005

² Promoting Herbal Medicine in Uganda, The Cross – Cultural Foundation of Uganda, 2008

³ WHO Traditional Medicine Strategy 2002-2005, Traditional Medicine and Complementary Medicine Act, 2019

and maintenance of knowledge and practices of indigenous and local communities which embody traditional lifestyles⁴. Uganda ratified the CBD in 1993 and through objective XI and Art 37 of the Constitution which promote sustainable use of natural resources and protection of cultural and customary rights respectively reflects one of the principles of CBD.⁵

Uganda has further taken strides in this direction by enacting the Traditional and Complementary Medicine Act, 2019, which establishes a framework for regulating traditional medicine practices through a council, established which is responsible for overseeing the registration and licensing of practitioners and to appoint a committee to ensure protection of the intellectual property rights of the practitioners.⁶

In a 2012 report, almost half of a population in Industrialized states use Traditional and Complementary medicine and in African states, an estimate of 80% of the people depend on traditional medicine as their main source of healthcare⁷. It's remarkable that among the 194 member states of W.H.O, at least 170 are using traditional medicine and it is now an increasing global demand as people seek good health and wellbeing. No wonder in the 2018 Declaration of Astana on primary healthcare,

⁴ Convention on Biological Diversity, Art. 8(j) <https://www.biodiv.org/> accessed 27th April, 2025

⁵ The 1995 Constitution of Uganda

⁶ Traditional and Complimentary Medicine Act 2019

⁷ WHO Traditional Medicine Strategy 2002-2005

traditional medicine knowledge was acknowledged.⁸

Beyond the health advantages, traditional medicine methods are untapped economic resources since generating a large informal market fueled by traditional practitioners. Approximately 40% of pharmaceutical products have a basis in traditional medicine demonstrating its economic value⁹

Much of the medical information, however, is uncommercialized, usually limited to particular households or lineages and unshared with the larger society despite this intrinsic worth. This underutilization points to a great and neglected chance for economic growth as well as a danger to herbal medicine extinction in Uganda.

In Uganda, herbalists' ignorance of intellectual property rights has rendered their traditional knowledge vulnerable to exploitation as unapproved organizations sometimes patent cures without permission. Many practitioners worry about external parties exploiting bio piracy and therefore hesitate to note their observations. Effective control of Intellectual Property (IP) is critical to completely realize this potential. Good intellectual property (IP) management will help to prevent this priceless information from being misappropriated, promote fair trade, guarantee fair

⁸ Declaration of Astana, Global Conference on Primary Health Care, Astana, Kazakhstan, 25-26 October 2018 <https://www.who.int/docs/default-source/primary-health/declaration>

⁹ World Health Organization, 'Traditional medicine has a long history of contributing to conventional medicine and continues to hold promise' (10 August 2023) <https://www.who.int/news/item/10-08-2023-traditional-medicine-has-a-long-history-of-contributing-to-conventional-medicine-and-continues-to-hold-promise> accessed on 27th April, 2025.

benefit-sharing with knowledge Keepers, and enable sustainable use¹⁰. Highlighted urgent needs include creating sui generis systems specifically designed to safeguard traditional knowledge associated with biodiversity, developing documentation tools like traditional knowledge digital libraries to stop unjust patenting, and increasing capacity building and awareness among stakeholders to empower traditional medicine practitioners about intellectual property.

Leveraging the intellectual property system efficiently to promote the economic potential of herbal medicine in Uganda depends on overcoming a major obstacle which is the knowledge gap that has been identified¹¹. To take use of the vast economic possibilities that the traditional medicine sector offers for Uganda's future, it is essential to overcome these awareness obstacles. The affordability of medicinal plants and availability seems to be a key factor allowing many rural Ugandan homes to get by with increasing healthcare costs¹².

1.2 Background and Problem Statement

Although the traditional and complementary medicine sector is vital for Uganda's healthcare, its great economic potential is locked. A notable challenge acknowledged at the national level is the pervasive ignorance and awareness of intellectual property

¹⁰ Ministry of Health, National Policy on Traditional Medicine and Regulation of Herbal Medicines (2022)

¹¹ ibid

¹² Uganda Registration Services Bureau, Annual Report 2023 – 2024 (2024) <https://ursb.go.ug>

(IP) rights among knowledge keepers and traditional healers, therefore impeding this potential¹³.

Formulating a particular legislation for Traditional Knowledge Protection is the national authority in charge of intellectual property, the Uganda Registration Services Bureau (URSB), being actively developed. This URSB project shows a definite awareness of the current difficulties in appropriately protecting and using traditional medicinal knowledge, therefore connecting to the problem of IP awareness¹⁴.

Adding to this problem, the current intellectual property rights systems in Uganda have been deemed insufficient in adequately protecting traditional knowledge and ensuring fair benefit sharing for its holders¹⁵. Low IP awareness together with poor legal systems thereby exposes traditional practitioners to exploitation, where their priceless knowledge may be commercially applied without appropriate recompense or acknowledgment.

An Intellectual Property System is useless without a proper mechanism for both granting rights to others to be resisted and enforcing rights¹⁶. As a result, the great medicinal resources and related economic possibilities are still underused, therefore

¹⁴ Uganda Registration Services Bureau, Annual Report 2023 – 2024 (2024) <https://ursb.go.ug> accessed on 24th April, 2025

¹⁵ *ibid*

¹⁶ World Intellectual Property Organization, WIPO Intellectual Property Handbook: Policy, Law and Use; Chapter 2- Fields of Intellectual Property Protection, WIPO Publication No. 489 (E), 2008

impeding the entire incorporation of herbal medicine into Uganda's formal economic system and so reducing its contribution to national development.

This raises the need to tackle low levels of IP awareness among practitioners, the possibility of changing current intellectual property or creating new forms to better protect traditional medicine, hence challenging if this kind of exclusive control, possibly limiting access, is the best answer.

This calls for knowledge of their rights, the means of protection, and the procedures for just commercialization and benefit sharing¹⁷. Uganda risks continued loss and misappropriation of valuable traditional knowledge and the significant economic advantages it possesses without bridging this critical gap.

1.3 Aims and Objectives of the Study

This study aims to assess the current economic contribution of traditional medicine in rural Uganda, analyze how limited intellectual property awareness constraints the economic potential of Uganda's herbal medicine sector, evaluate the potential economic contribution of uncommercialized traditional medicinal knowledge, determine IP awareness levels among traditional herbal medicine stakeholders, and ultimately propose solutions for enhanced protection and commercialization¹⁸.

1.4 Research Questions

a) What is the current economic contribution of traditional herbal medicine in rural Uganda?

¹⁷ R Abbott, Documenting Traditional Medical Knowledge (WIPO, March 2014)

¹⁸ R Abbott, Documenting Traditional Medical Knowledge (WIPO, March 2014)

b). What is the potential economic contribution of uncommercialized traditional medicinal knowledge?

c). What is the level of IP awareness among stakeholders in Uganda's traditional herbal medicine sector?

d). How does limited IP awareness constrain the economic potential of the traditional herbal medicine sector in rural Uganda?

1.5 Significance of the Study

The study is important because it investigates the crucial role of traditional herbal medicine in rural Uganda, knowing its dual use as not only an important healthcare provider but also an underdeveloped possible engine of economic growth¹⁹. By particularly looking at how limited awareness of Intellectual Property restricts this potential, the study illuminates a major obstacle preventing the formalization, ongoing use, and fair commercialization of priceless traditional knowledge kept by healers and within society²⁰. The results are vital for guiding the creation of specific laws and policies regarding IP protection, customary medicine, and rural economic development.

Moreover, knowing the present awareness levels is essential for creating successful capacity building programs that will enable traditional knowledge keepers to safeguard their possessions, negotiate fairer terms, and finally engage more actively

¹⁹ *ibid*

²⁰ Timmermans K. Intellectual property rights and traditional medicine: policy dilemmas at the interface. *Soc Sci Med.* 2003 Aug;57(4):745-56. doi: 10.1016/s0277-9536(02)00425-2. PMID: 12821021

in a structured sector, hence promoting national economic diversification grounded in Uganda's rich cultural and biological legacy²¹.

1.6 Scope of the Study

The study is on custodians of uncommercialized traditional medical knowledge and conventional herbal practitioners. Key topics addressed include measuring present economic contributions, analyzing the potential of unshared knowledge, ascertaining Intellectual Property (IP) awareness among these stakeholders, and examining how ignorance limits fulfillment of the industry's economic potential.

Given that most Ugandans live in rural areas where access to conventional medical care is limited by distance and cost, traditional herbal medicine is a main source of healthcare. Thus, the study is limited to this particular relationship and does not investigate other more general issues of conventional medicine or clinical efficacy of herbal treatments.

Apart from its crucial public health role, this industry has great, albeit mostly unexploited, potential as a contributor to the national economy through formalization, commercialization, and sustainable value chains based on important local knowledge. Despite increasing awareness of the value of traditional knowledge both nationally and internationally, there is a severe gap in understanding the particular obstacles to releasing this economic potential in Uganda.²²

²¹ Uganda Registration Services Bureau, Annual Report 2023 – 2024 (2024) <https://ursb.go.ug>

²² WIPO's Programme for protection of traditional medical knowledge in Africa, 2023

Although issues of safety and standardization are noted, the complex relationship between Intellectual Property (IP) and the economic prospects of traditional herbal medicine especially how a lack of knowledge about IP among knowledge bearers acts as a tangible limitation remains much underexplored. This slows the creation of successful plans to safeguard traditional knowledge from misappropriation, empower its custodians, promote fair benefit sharing, and formally and sustainably integrate the sector into the economy²³. Moreover, as global interest in natural products grows and national policies regarding traditional medicine and biodiversity evolve, there is an increasing urgency to understand these dynamics to prevent exploitation and ensure that potential benefits contribute to local development. Hence, this study is warranted as it directly addresses this critical knowledge gap by investigating how limited IP awareness constrains the economic potential of Uganda's herbal medicine sector, therefore providing essential insights needed to inform targeted policy interventions, awareness campaigns, and development initiatives aimed at unlocking this valuable indigenous resource equitably and sustainably.

²³ Ministry of Justice and constitutional Affairs, National Intellectual Policy May, 2022. <https://ursb.go.ug> accessed on 24th April, 2025

1.8 Literature Review

Acknowledging the significant economic potential of traditional Ugandan medicine, utilized by an estimated rate of 70% of the population, Veronica L., Obwona M., Onen D., and their colleagues, in their work highlighted the crucial challenges of limited awareness and the lack of formal intellectual property (IP) protection mechanisms.

²⁴An IP system is basically useless without the means of enforcing rights and stopping unapproved use.²⁵

Developing upon their study, the major point that is not discussed is the great barriers existing among indigenous peoples that hold traditional knowledge especially trust and compliance to cultural practices, which have a great influence on knowledge sharing as a cultural method to protect the valuable treasure from exploitation of people outside their close lineage, and sometimes communities. A more culturally sensitive approach honoring indigenous epistemologies is crucial rather than just applying current IP laws. Still, in another study, emphasis was placed on the absolute need of quality control systems to standardize practices of traditional medicine and guarantee patient safety²⁶. More than just recognizing the prevalence of the Conventional IP system.

²⁴ Veronica L, Obwona M, Onen D, et al., 'Intellectual Property Protection for Traditional Herbal Medicine in the Cultural Science Center of Excellence in Africa, Gulu University, Gulu District, Uganda: Challenges and Opportunities'(2024)

²⁵ World Intellectual Property Organization, WIPO Intellectual Property Handbook: Policy, Law and Use; Chapter 2- Fields of Intellectual Property Protection, WIPO Publication No. 489 (E), 2008

²⁶ Titilayo Adebola 'Mapping Africa's Complex Regimes: Towards an African Centered AfCFTA Intellectual Property Protocol' (2020) 1 Afr J Int Econ L

In a piece, Abbo C offers persuasive data indicating that almost 80% of Africans see traditional healers, highlighting their crucial role in Uganda's healthcare system and recommended traditional medicine ²⁷ and in another study essential need for quality control was pointed out to standardize traditional medicine practices and ensure patient safety.²⁸ But unlocking these underutilized resources depends on developing trust and mutual respect between traditional healers and involving them in the official healthcare system to enable such integration and enhance economic development.

Emphasizing the essential role of traditional medicine especially in maternal and mental health care, Mwaura M in Integrating Traditional Medicine with Modern Healthcare: Addressing Maternal and Mental Health in Uganda argues for its integration within contemporary healthcare systems to enhance results while preserving cultural legacy. The article describes how traditional medicine is used in prenatal, labor, and postnatal care as well as its effects on mental health via community practices. Still, there remain difficulties including cultural obstacles. It highlights serious health issues experienced in Uganda, where vital drugs and medical personnel are in short supply causing many Ugandans to turn to traditional herbal treatments in response, highlighting the possible financial advantages connected with

²⁷ Abbo C, 'Profiles and Outcome of Traditional Healing Practices for Severe Mental Illness I Two Districts of Eastern Uganda'(2011) 4 Glob Health Action 7117

²⁸ Simbwa BN , Naiga HN, Mugisha R, et al., 'Knowledge, Attitude and Practices of Traditional Healers Towards Ebola Virus Disease in Affected Communities, Uganda, september 2022'(2023) 8 Uganda Public Health Bulletin Article No.5

such activities²⁹. However the limited awareness of Intellectual Property (IP) rights, limits the economic impact of herbal medicine by inhibiting its efficient effect on innovation. In an outlined project that seeks to grow medicinal plants, help local populations, and create a model value chain for traditional herbal medicine, it was highlighted how essential it is to combine intellectual property understanding inside the structure of traditional medicine in order to improve its worth and sustainability.³⁰

In the article "Indigenous Knowledge of Traditional Medicine: Answering the Question of Knowledge Acquisition and Transmission among the Traditional Health Practitioners in Uganda," Peter Bagwana discusses the vital role of traditional medicines within Uganda's healthcare system. He emphasizes the necessity of scientific research to enhance traditional healers' understanding of their practices and advocates for open knowledge exchange among practitioners.³¹

Considering that Indigenous communities often lack an understanding of how intellectual property operates, leading to hesitance in sharing medicinal knowledge as a form of protection, the reluctance threatens the preservation of cultural heritage

²⁹ Integrating Traditional Medicine with Modern Healthcare: Addressing Maternal and Mental Health in Uganda

³⁰ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, 'Improving the Use of Traditional Medicinal Plants in Uganda' (February 2024) <<https://www.giz.de/en/worldwide/132983.html>> accessed 27th.April.2025.

³¹ Bagwana P, 'Indigenous Knowledge of Traditional Medicine: Answering the Question of Knowledge Acquisition and Transmission among the Traditional Health Practitioners in Uganda' (2015) 30 Anthropology 13-32 <https://doi.org/10.1501/antro_0000000318> accessed 24 April 2025

for future generations and hinders innovation. It is imperative for the government to build trust in protective mechanisms to facilitate full economic development because without the traditional medicine knowledge, there is no guarantee of modern pharmaceuticals.³²

Traditional Medical Knowledge (TMK) relies on herbal remedies and nature-derived treatments, serving as a foundational aspect for the development of modern medicine. While the pharmaceutical industry has evolved and often marginalized TMK, many contemporary medical practices still draw upon these traditional methods, highlighting their synergy and coexistence.

1.9 Methodology

This study used a multifaceted approach including desk literature reviews and interviews for thorough understanding of the theoretical basis on patents and intellectual property, directed data collection, came from the literature review. Practical insights were gained from staff members at the Intellectual Property office of the Uganda Registration Services Bureau (URSB) and other IP specialists that offered expert perspectives. Additionally, interviews with local residents Provided nuanced understanding of the Ugandan context surrounding intellectual property rights and traditional medicine.

³² Anthony C. K. Kakooza, *Indigenous Knowledge: Bridging with Modern Medicine*

1.10 Chapter Synopsis

The synthesis of these theoretical and practical insights guided the interpretation of research results, especially in regard to intellectual property and patents. This study investigates how little intellectual property (IP) knowledge limits the economic impact of herbal medicine in Uganda. Chapter one provides pertinent literature, the significance of herbal medicine, and the research goals. Chapter two examines Uganda's Traditional medicine extensively and its economic contribution, stressing difficulties. Chapter three reports study results on the way the lack of IP awareness among traditional healers inhibits the economic potential of this sector.

At last, chapter four ends with suggestions to raise IP awareness and bolster the legal system to realize this potential for Uganda's economic development. Many modern medical procedures still rely on these traditional techniques, therefore stressing their synergy and coexistence even if the pharmaceutical sector has developed and often marginalized TMK.

CHAPTER 2.

2.1 Understanding Traditional Medicine in Uganda.

Traditional Medicine (TM) in Uganda represents a vital, complex, and culturally rich healthcare system, deeply embedded in the lives of its people. To understand its economic potential and the constraints imposed by limited intellectual property awareness, it is crucial to first establish a clear understanding of what traditional medicine entails, its significance, and its current standing within the national context, while also learning from the experiences of other nations.³³

It is defined as "the sum total of the knowledge, skill and practices based on the theories, beliefs, and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness"³⁴.

Further as "knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part

³³ Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions, World Intellectual Property Organization (2023) <https://www.wipo.int/en/web/traditional-knowledge> accessed 25 October 2023.

³⁴ World Health Organization 'Traditional Medicine' (2024) <https://www.afro.who.int> accessed 27 April 2025). Traditional and Complementary Medicine Act, 2019

of its cultural or spiritual identity³⁵.

The concept of Traditional medicine in Uganda encompasses several distinct but often overlapping practices, including herbalism, spiritual counseling, and bone-setting, the focus of the discussion is herbalism.

The practice of herbalism involves not just identifying plants but also possessing intricate knowledge about which parts to use, optimal harvesting times, and crucial preparation methods, such as making mixtures through decoctions, poultices, and oral infusions. This knowledge of how to combine and process plant materials to create effective remedies is a core intellectual asset within traditional medicine.

Bone-setting involves manual techniques, often supplemented with local plant-based analgesics.

Spiritual counseling is a component, the tangible aspects of herbal and manual therapies hold more direct relevance for product development and formal economic engagement.

The use of traditional medicines is widespread in Uganda, especially in rural areas where there is accessibility to the herbs that are intrinsically linked to the extensive

³⁵ WIPO. (2018). Intellectual Property and Traditional Medical Knowledge. Background Brief - No. 6. World Intellectual Property Organization.

biodiversity of Uganda³⁶ among the knowledge holders as medicine and its transmission traditionally had its roots in oral traditions passed down through older generations.

2.2 Developments of Traditional Medicine in Uganda.

Historically, the development of traditional medicine faced significant disruption and suppression during the colonial era, notably under policies like the 1957 Witchcraft Act, which marginalized and often criminalized traditional practices³⁷. This period created a legacy of informality and, in some cases, stigma that has transcended until today. This also affected in Knowledge transmission that is traditionally reliant on oral traditions passed down through older generations, which also affected the formal documentation.

Despite historical suppression, Traditional Medicine persisted and remains fundamentally important in Uganda today. For a significant majority of the population, it is the primary and most accessible form of healthcare. Estimates indicate that a staggering 80-90% of Ugandans rely on traditional medicine for their primary healthcare needs, particularly in rural areas where formal biomedical services are

³⁶ Traditional Medicine in Uganda : Historical Perspective, Challenges and Advances, World Bank.(2004) <https://openknowledge.worldbank.org>, accessed on 29th April

³⁷ ibid

often scarce or inaccessible³⁸. National reports and surveys consistently underscore this high reliance, highlighting the critical role of Traditional Medicine in bridging gaps in healthcare access across the country³⁹ This widespread reliance underscores its critical role in meeting the health needs of the population and signifies an existing, albeit often informal, economic ecosystem sustaining practitioners and local trade in medicinal plants⁴⁰.

There are several significant developments in traditional medicines since the time when it was illegal to use until today when a number of them have been tested clinically and approved as medicines that can cure particular diseases.

A number of herbal medicines have been improved to the market standard, considering NCRI's contribution about 5000 medicinal plant species have been documented, some of which after chemical tests are then notified to NDA⁴¹

Over 44 species are documented for treating a wide array of ailments, such as

³⁸J.R.S Tabuti, S.S Dhillon and K.A Lye, 'Traditional medicine in Bulamogi county, Uganda: its practitioners, users and viability' (2003) 85 Journal of Ethnopharmacology 119 <[https://doi.org/10.1016/S0378-8741\(02\)00378-1](https://doi.org/10.1016/S0378-8741(02)00378-1)> accessed 05th.May.2025

³⁹ Uganda Ministry of Health. (2022). National Report

⁴⁰ Galabuzi C, Agea JG, Fungo BL, Kamoga RM. Traditional medicine as an alternative form of health care system: a preliminary case study of Nangabo sub-county, central Uganda. Afr J Tradit Complement Altern Med. 2009 Oct 15;7(1):11-6. doi: 10.4314/ajtcam.v7i1.57224. PMID: 21304607; PMCID: PMC3005386 accessed on 5th.May.2025

⁴¹ Achievements of Natural Chemotherapeutics Research Institute (NCRI) <https://ncri.go.ug>, accessed on 6th, May, 2025

Moringao leifera⁴² for general health, Centella asiatica for wound healing, and specific plants like Citropsis articulata and Cola acuminata used for sexual impotence, or Corchorus spp. and Hibiscus spp. for gastrointestinal issues⁴³

Some Ugandan herbal medicines have undergone initial processes of validation or are recognized for their traditional uses. While comprehensive scientific validation for all traditional remedies is ongoing, efforts are being made to identify and confirm the efficacy of certain plant-based treatments for specific conditions⁴⁴. Examples of herbal medicines that have received attention or acceptance for particular treatments are emerging as the sector undergoes greater scrutiny and formalization⁴⁵.

The economic development derived from these practices is currently largely informal, based on direct payment for services and local sales of prepared remedies. However, the extensive plant diversity and the sophisticated knowledge of their application represent a vast, often underexploited economic resource⁴⁶. The transition from this resource base to formalized economic gain, through standardized products and wider market access, is a key challenge explored further in subsequent sections.

⁴² J Hajdu Z, Hohmann J. An ethnopharmacological survey of the traditional medicine utilized in the community of Porvenir, Bajo Paraguá Indian Reservation, Bolivia. (2012).

⁴³ Promoting Herbal Medicine In Uganda, Cross-Cultural Foundation Report [https://crossculturalfoundation.or.ug\(2021\)](https://crossculturalfoundation.or.ug(2021)) accessed on 29th April

⁴⁴ Nankinga, O., & Muwanga, A. (2021)

⁴⁵ Uganda National Council for Science and Technology (UNCST).

⁴⁶ Owakol, R. W., & Namasasu, J. (2019).

2.3 Legal and Regulatory Frameworks

Post-independence Uganda has moved towards formally recognizing traditional medicine, a significant development from the period of colonial suppression. This recognition culminated in the enactment of the Traditional and Complementary Medicine Act, 2019⁴⁷. This Act serves as the primary legal and regulatory framework for Traditional Medicine in the country.

Key provisions of the Act include the establishment of the National Council for Traditional and Complementary Medicine (NCTCM), tasked with regulating practitioners and traditional health products. It mandates laboratory assessments for herbal products to ensure safety and efficacy and prohibits the use of the title "Doctor" by Traditional Medicine practitioners to distinguish them from biomedical professionals⁴⁸. Crucially, the Act encourages intellectual property (IP) protection for TM innovations through the Intellectual Property committee established by the council in signaling legislative intent to recognize the intellectual assets within the sector.

The Uganda National Drug Authority (NDA) plays a significant role in the regulation of medicines in the country, including aspects related to traditional and herbal medicines. The NDA is involved in the process of registering herbal products that meet certain standards for safety and quality⁴⁹. As part of ongoing efforts towards formalization, updates indicate that over 300 herbal medicines have recently been

⁴⁷ Uganda National Drug Authority (NDA).(2015). National Drug Policy..

⁴⁸ Ibid

⁴⁹ Uganda National Drug Authority (NDA). (2024).

registered by the NDA, a step towards bringing traditional remedies into the formal regulatory system and enhancing their credibility and market potential ⁵⁰. This registration process is a crucial step for traditional medicines to be recognized within the formal healthcare and economic sectors, although the path to registration and widespread acceptance still presents challenges.

This recognition marks a progressive step towards integrating Traditional Medicine into the national healthcare system and creating an enabling environment for its potential economic development. This framework also operates within a broader international legal landscape shaped by relevant conventions, protocols, and treaties concerning biodiversity, traditional knowledge, and intellectual property, such as the Convention on Biological Diversity (CBD), the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, and ongoing discussions at the World Intellectual Property Organization (WIPO) related to TK and genetic resources ⁵¹. Uganda's domestic legal framework interacts with these international instruments, particularly regarding issues of access and benefit-sharing and the prevention of biopiracy.

However, the effectiveness of this framework in facilitating formal economic growth and adequately protecting traditional knowledge is subject to implementation

⁵⁰ URSB (Uganda Registration Services Bureau). (2025). [Report on Registered Herbal Medicines]

⁵¹ Convention on Biological Diversity (CBD) Secretariat. (2011). Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization

challenges and existing gaps, which contribute to the constraints on realizing economic potential.

2.4 Challenges and Systemic Barriers

Despite the legal recognition, the traditional medicine sector in Uganda faces significant challenges that constrain its formal economic development. These systemic barriers are often amplified by the limited awareness and application of Intellectual Property principles.

Regulatory ambiguities and enforcement challenges present a hurdle. While the 2019 Act mandates standards like laboratory assessments, insufficient funding and personnel for the NCTCM hinder effective monitoring, particularly in rural areas⁵². This leads to practitioners bypassing regulations due to cost and accessibility, resulting in inconsistent quality control. This lack of standardization in processes like making mixtures directly impacts product consistency, safety, and efficacy, posing substantial barriers to accessing regulated markets and building consumer trust necessary for economic growth⁵³.

A critical challenge, intrinsically linked to IP, is the pervasive threat of biopiracy and exploitation. Uganda's biodiversity and associated traditional knowledge are valuable assets, yet inadequate IP protection and limited awareness make them vulnerable to unauthorized appropriation by external entities. Cases like the patenting of Uganda's *Mycobacterium vaccae* without equitable benefit-sharing arrangements demonstrate

⁵² TWN (Third World Network). (2006).

⁵³ Kambugu, G., & Kanyesigye, F. (2020).

how valuable local resources and knowledge can be exploited for foreign gain, representing significant lost economic opportunities for Uganda⁵⁴.

This brings us to a central point: Why traditional medicines may need intellectual property protection. The knowledge embedded in traditional medicine is not merely cultural; it has significant scientific and economic value, often serving as a roadmap for research and development. Protecting it is essential to ensure that the communities who developed and preserved this knowledge are recognized, credited, and benefit fairly when it is used commercially. Without protection, this knowledge is treated as being in the public domain globally (even if sacred or restricted locally), making it easy for others to exploit without compensation. IP protection, or sui generis systems inspired by it, is needed to assert rights, prevent unauthorized use, and facilitate equitable access and benefit-sharing agreements⁵⁵

However, there are significant shortcomings of existing intellectual property systems to be able to protect traditional medicines in their inherent form. Conventional IP, such as patents, is designed for novel, non-obvious inventions with a clear inventor and date, often documented formally.

Traditional knowledge is typically collective, evolutionary, passed down orally, and may not meet these criteria. While the Ugandan Act encourages IP, it lacks specific, clear guidelines on how traditional knowledge itself can be documented and effectively protected under existing IP laws, or through tailored sui generis

⁵⁴ ibid

⁵⁵ Logiel, J., et al. (2022).

mechanisms⁵⁶. This lack of clarity and weak enforcement leaves practitioners vulnerable.

Furthermore, stigma and professional differentiation pose a societal barrier. Traditional medicine practitioners often face stigma as being "unscientific," leading to a preference for modern medicine among segments of the population⁵⁷. This perception can limit market acceptance. While not directly an IP issue, formalization through processes that could be supported by IP (like standardized product quality certified by a trademark) could help build credibility and counter stigma. Limited IP awareness hinders practitioners' ability to leverage such formalizing tools.

The experiences of other nations starkly contrast with Uganda's current constraints and highlight the potential that can be unlocked through strategic engagement with traditional medicine and intellectual property. Developing countries like India and economic powerhouses like China have realized significant economic benefits from their traditional medicine systems, demonstrating the viability of leveraging indigenous knowledge for national development. India has built a massive 'AYUSH' industry (Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy) and developed initiatives like the Traditional Knowledge Digital Library (TKDL) to prevent the misappropriation of its TK, facilitating research and commercialization based on documented knowledge⁵⁸. China's Traditional Chinese Medicine (TCM) sector

⁵⁶ *ibid*

⁵⁷ Owakol, R. W., & Namasasu, J. (2019)

⁵⁸ WIPO. (2018). Intellectual Property and Traditional Medical Knowledge. Background Brief - No. 6. World Intellectual Property Organization.

generates billions in international trade annually, supported by substantial state investment in research, standardization, education, and strategic use of IP tools like trademarks and patents on derived products⁵⁹.

These examples demonstrate not only the realized economic importance of traditional medicine when strategically managed but also underscore that the challenges faced by Uganda are not insurmountable. If developed nations engage with natural product research derived from traditional knowledge globally, and if large developing economies can formalize and derive significant economic value from their traditional systems, then Uganda, as a Least Developed Country (LDC) with abundant biodiversity and rich traditional knowledge, has an even more compelling imperative to act. Leveraging its indigenous Traditional Medicine assets represents a direct pathway to potential economic empowerment, job creation, and improved local healthcare, rooted in its own cultural heritage rather than solely relying on external knowledge systems. The success stories elsewhere serve as a powerful argument for Uganda to prioritize building the necessary frameworks and awareness to protect and capitalize on its own traditional medicine wealth.

2.5 International Collaboration and Innovations

The international context highlights both the risks and opportunities for Ugandan traditional medicine. Global struggles around biopiracy, evident in cases like Kenya's microbe or Southern Africa's Baobab tree being patented externally, underscore the

⁵⁹ WIPO (World Intellectual Property Organization). (2024). Traditional Knowledge World Intellectual Property Organization. <https://www.wipo.int/en/web>

urgency for robust national IP frameworks and international cooperation on access and benefit-sharing (ABS)⁶⁰. Negotiations under the Convention on Biological Diversity (CBD) and World Trade Organization (WTO) highlight the global debate on creating binding rules for ABS, which is crucial for countries like Uganda to benefit from their genetic resources and associated Traditional Knowledge.

Uganda's Traditional and Complementary Medicine Act, 2019, aligns with CBD goals by encouraging IP protection, but it currently lacks specific mechanisms to effectively enforce ABS agreements⁶¹. This gap means that while the legislature recognizes the need, the tools for ensuring fair benefit-sharing in international collaborations involving Traditional Medicines are not fully developed or implemented. Collaborative efforts, such as the German-Uganda (Saxony Project) focusing on pharmacological trials and sustainable cultivation, represent positive steps towards research and potential value creation, but navigating IP and ABS within such partnerships remains complex and dependent on clear frameworks and awareness⁶².

2.6 Future Directions and Recommendations

Unlocking the economic potential of traditional medicine in Uganda requires a strategic and multi-faceted approach that directly addresses the identified challenges, particularly those related to Intellectual Property. Based on the analysis, several

⁶⁰ Kambugu, G., & Kanyesigye, F. (2020).

⁶¹ Convention on Biological Diversity (CBD) Secretariat.(2011). Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.

⁶²Cloatre E. Traditional medicines, law and the (dis)ordering of temporalities. In: Beynon-Jones SM, Grabham E, editors. Law and Time. Oxon (UK): Routledge; 2019. Chapter 6. [https://www.ncbi.nlm.nih.gov/doi:10.4324/9781315167695-7](https://www.ncbi.nlm.nih.gov/doi/10.4324/9781315167695-7).

measures have to be done to make sure intellectual property rights protect traditional medicines and contribute to their formalization and economic empowerment:

Strengthen NCTCM Capacity and Regulatory Implementation: Provide adequate funding and personnel to the NCTCM to enable effective monitoring, enforcement of laboratory assessments, and promotion of Good Manufacturing Practices (GMP) and standardization, including for mixture making⁶³.

Develop clear legal guidelines and accessible mechanisms within or alongside the 2019 Act for documenting and protecting traditional knowledge. This could involve creating Traditional Knowledge databases (like India's TKDL) for defensive protection and exploring sui generis IP options or the use of geographical indications for specific traditional products. Establish mechanisms to audit and share benefits from patented Traditional Knowledge derived from Ugandan resources⁶⁴.

Implementing Robust Biopiracy Prevention and ABS Mechanisms:

Ratify and effectively implement international CBD and Nagoya Protocol principles to ensure prior informed consent (PIC) and equitable benefit-sharing (ABS) from the use of genetic resources and associated Traditional Knowledge. This requires legal measures, potentially criminalizing biopiracy, and mandating transparency in patent applications regarding the origin of biological resources and Traditional Knowledge⁶⁵.

⁶³ TWN (Third World Network). (2006).

⁶⁴ *ibid*

⁶⁵ Convention on Biological Diversity (CBD) Secretariat. (2011). Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization

Implement targeted training programs for traditional medicine practitioners, communities, researchers, and policymakers on the value of TK, IP rights (including conventional and sui generis options), documentation methods, ABS procedures, and negotiation skills⁶⁶

⁶⁶ *ibid*

CHAPTER 3

The Role of Intellectual Property in the Protection of Traditional Medicines in Uganda

3.1 Introduction

Intellectual Property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, and symbols, names, and images used in commerce. These rights allow creators or owners to benefit from their work or investment in a creation. With Uganda's rich biodiversity and cultural heritage, traditional medicine forms a significant part of the country's health care and economic systems. However, traditional knowledge, particularly traditional medicine, faces challenges in being adequately protected under existing IP regimes.

3.2 Forms of Intellectual Property

a). Patents

Patents protect inventions that are novel, involve an inventive step, and are industrially applicable. While they are crucial for pharmaceutical innovations, they often fail to protect traditional medicine, which is typically communal and not "new" in the patent sense. Abbott notes that "many traditional medicines fail to qualify, particularly once they have been documented in public domains"⁶⁷ Similarly, Dutfield

⁶⁷ (Abbott, 2014, p. 12).

(2004) argues that patent systems often ignore the cumulative and ancestral nature of Traditional Knowledge.

In Uganda's case as an LDC, it can only patent a pharmaceutical process and not product following the Industrial Property Act ⁶⁸

2. Trademarks

Trademarks protect names, logos, or slogans that distinguish goods or services. In traditional medicine, they help practitioners brand herbal products or clinics. According to Abbott, trademarks can allow “practitioners to build a strong brand, gain consumer trust, and protect their products from imitation”⁶⁹. This form of IP is particularly useful for commercialization and export, as seen with Ayurvedic and Chinese traditional medicine brands.

3. Copyright and Related Rights

Copyright protects original literary, artistic, and musical works. In the context of Traditional Knowledge, it applies to documented expressions such as medicinal manuals, cultural stories, or illustrated guides but not to the knowledge or practices themselves. WIPO recognizes this limitation, emphasizing that “copyright does not protect ideas, procedures, or methods of operation,” which includes the functional use of herbs or rituals.

⁶⁸ Industrial Property Act, Cap 224

⁶⁹ *ibid*

4. Industrial Designs

Industrial designs protect the aesthetic or ornamental features of a product (e.g., shape, pattern, or color). In traditional medicine, this could apply to packaging, containers, or tools used in healing practices. However, as Abbott notes, the utility-based nature of Traditional Medicines often limits the role of aesthetic-based protection⁷⁰

5. Geographical Indications (GIs)

GIs protect names and signs that link products to a specific region with a recognized quality or reputation. For traditional medicine, GIs can preserve identity and local value forexample, “Tibetan Cordyceps” or “Kalahari Devil’s Claw.” Abbott notes that GIs “help safeguard local remedies and indigenous practices from outside misuse”⁷¹supports this view, arguing that GIs can empower communities by affirming the cultural and territorial origin of Traditional Knowledge based products.

6. Trade Secrets

Trade secrets protect confidential knowledge that gives a business a competitive advantage such as undisclosed formulations or preparation techniques. This can be valuable in Traditional Medicines, where healers may wish to keep remedies secret.

⁷⁰ (Abbott, p. 23).

⁷¹ Oguamanam (2011), pg 12

However, this protection depends entirely on the ability to maintain secrecy. As Abbott warns, “once traditional knowledge is disclosed to researchers or third parties, it may lose its legal protection under trade secret law”⁷².

3.3. Legal Framework and Its Limitations in Protecting Locally Manufactured Medicines

1. Industrial Property Act, 2014

This Act governs patents, utility models, and industrial designs. However, several limitations under Section 9(1) require strict novelty and inventive step which hinders many local drug innovators hence failing this test. Also under Section 7(1)(e), it excludes biological methods for the production of plants from patentability. Section 22(1): Recognizes traditional knowledge but lacks enforcement procedures. The compulsory licensing provisions under Section 58 are weak, offering little support for local drug production.

This impasse was exhibited in the Royal Group of Pakistan v. Mavid Pharmaceuticals Ltd⁷³ - Local manufacturer faced challenges due to unclear patent protections, highlighting enforcement and registration weaknesses.

2. Trademarks Act, 2010

This Act protects brand identity (e.g., names, logos), not drug formulations. However it limits the protection offered for the scientific or therapeutic content of medicines.

⁷² ibid

⁷³ (HCCS 383 of 2010)

3. Geographical Indications Act, 2013

This legislation protects products linked to specific regions. While this is celebrated, it doesn't extend to processed or synthetic pharmaceutical products.

4. Copyright and Neighboring Rights Act, 2006

This Act protects literary/artistic works, including folklore but is silent or doesn't cover functional inventions like drug formulas.

3.4. Enforcement Gaps

Despite several gaps in the various legislations, there also exist manifest gaps in enforceability. *Advocates for People & Anor v. National Drug Authority & Jena Herbals*⁷⁴- Court declined to address patent concerns over the herbal drug COVIDEX, citing lack of jurisdiction, and exposing weak enforcement channels for pharmaceutical IP protection.

In another distinguishable authority, *Novartis AG v. Union of India* (2013), the Supreme Court of India rejected Novartis's patent application for the beta crystalline form of the cancer drug Imatinib Mesylate (Glivec), ruling that it did not demonstrate enhanced therapeutic efficacy over its known form. This landmark judgment, based on Section 3(d) of the Indian Patents Act, emphasized the need to prevent "evergreening" of patents and upheld the principle that only genuine innovations should receive patent protection. As a result, the decision, supported by India's robust legal framework, significantly improved access to affordable medicines by allowing

⁷⁴ (M.A No. 209 of 2021)

generic drug manufacturers to produce and distribute life-saving treatments at much lower costs.

This implies that Uganda's IP framework is comprehensive on paper but lacks effective provisions and enforcement mechanisms for locally manufactured medicines. Case law reveals weaknesses in patentability, protection of traditional knowledge, and IP enforcement—hindering pharmaceutical innovation. International examples like India show how tailored legal protections can both safeguard innovation and promote access

3.5. Forms of IP That Can Protect Traditional Medicines

Traditional medicines can be protected through multiple forms of intellectual property (IP), though conventional IP systems often do not align perfectly with the communal and intergenerational nature of traditional knowledge.

Patents:

Traditional medicine may be patentable when "a traditional medicine is isolated and standardized into a new invention." However, "because novelty is a necessary requirement for patent protection," prior public use or documentation, even in traditional settings, can disqualify an invention from being patented.⁷⁵ In Uganda, if the process acquires the required qualifications to be patented which is hard to come across.

⁷⁵ (Abbott, 2014, pp. 12–13).

Geographical Indications (GIs):

GIs protect traditional medicine products linked to specific regions. “GIs ensure that only products from a certain region can use a designated name, helping to safeguard local remedies and indigenous practices from outside misuse”⁷⁶ They also help “support community identity and regional economic development.”

Trademarks:

Trademarks offer protection by branding traditional medicine products. “Registering a trademark helps traditional medicine practitioners build a strong brand, gain consumer trust, and protect their products from imitation,” allowing for business growth and international market access⁷⁷

Copyright:

While not applicable to the medicinal knowledge itself, copyright “protects documentation or artistic expressions related to traditional medicine,” such as written texts, manuals, or illustrations⁷⁸

Trade Secrets:

Communities may choose to keep traditional formulations and methods confidential. “Trade secrets may be used to protect undisclosed knowledge or formulas used in

⁷⁶ (Abbott, 2014, p. 12).

⁷⁷ (Abbott, 2014, p. 25).

⁷⁸ *ibid*

traditional medicine preparation,” particularly when public disclosure would risk misappropriation.

3.6 Sui Generis Regimes:

Abbott stresses that “there is no generic way to protect traditional medical knowledge,” and thus recommends considering sui generis systems—custom legal frameworks tailored to the specific cultural and legal needs of traditional knowledge holders.

Intellectual Property tools if used appropriately, can help communities protect, manage, and benefit from their traditional medicinal knowledge while maintaining cultural integrity and fostering sustainable development.

6. Limitations of IP in Protecting Traditional Medicines in Uganda Despite potential forms of protection, there are several limitations:

a). Under Patents, it is unlikely that local products manufactured in Uganda can be patented here. This clearly frustrates innovation and creates unfair competition with large pharmaceutical companies. In 2020, Professor Patrick Engeu Ogwang, the inventor of Covidex a herbal medicine made using a combination of herbs containing antiviral properties that local communities in Uganda have traditionally used to treat viral infections such as measles and certain coughs.

While patents protect the product and process by which a technological invention is developed, S.7 of the Industrial Property Act, Cap 224 provides that pharmaceutical inventions are not eligible for patent protection in Uganda. This provision was

adopted on the basis of Article 66.1 of the Agreement on Trade Related Aspects of Intellectual Property (“TRIPS”) which removes the obligation on Least Developing Countries (“LDCs”) from granting and enforcing pharmaceutical patents in view of their economic, financial and administrative constraints⁷⁹.

While some may argue that LDCs have benefited from non-enforcement of pharmaceutical patents by large originator pharmaceutical manufacturers (and this is debatable), inventors in these countries are also constrained in their ability to obtain patent protection for their pharmaceutical inventions like Covidex in Uganda which got an alternative protection from trademarks but clearly the most appropriate would have been patents.

The actual inference being that when local medicines are made and patented, it would have a positive economic impact on those communities through protecting their innovations and marketability of the said products.

b). Non-Disclosure and Oral Tradition

In many of the African communities, Traditional medicines are often orally transmitted, making it hard to document and prove originality or authorship. Article 3 of the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge deals with a disclosure requirement, the agreement mandates that individuals seeking patent rights for genetic resources must reveal the origin of those genetic resources. This is frequently found in locations like herbariums

⁷⁹ URSB (Uganda Registration Services Bureau). (2025). Report on Registered Herbal Medicines

or gene banks⁸⁰. For patents "derived from" traditional knowledge, applicants are required to reveal the Indigenous peoples and local communities that contributed to it. If the origin of this is uncertain, the applicant needs to reveal its source.

At times, the applicant is not aware of the origins of the genetic resources or traditional knowledge. In such instances, they need to openly admit that they truly have no knowledge of the origin. Since in most cases the source of the information regarding production and applicability of local medicines is not traceable, it should be effectual that patent examiners will offer assistance in order to aid applicants in meeting the disclosure obligation and those opportunities to rectify any failures in disclosure should also be given by them⁸¹.

While countries like India and Brazil have made strides to recognize and safeguard traditional knowledge within legal and institutional frameworks, Uganda faces distinct disadvantages due to limited infrastructure, regulatory gaps, and lack of comprehensive national policies. As Ryan Abbott (2014) explains, "traditional knowledge has historically been at odds with modern intellectual property systems", and these conflicts are even more pronounced in under-resourced contexts like Uganda.

c). Collective Ownership vs. Individual IP Rights

⁸⁰ Kakooza, A. C. K. 'Show Me the Money: Evaluating the Significance of Traditional Knowledge and Cultural Expressions in the Context of Foreign Direct Investment Outflows

⁸¹ *ibid*

IP laws are typically based on the idea of individual ownership or corporate authorship. However, traditional knowledge is “often communally held and transmitted orally across generations”⁸². This misalignment creates barriers for indigenous communities seeking IP protection.

India has addressed this challenge through its Traditional Knowledge Digital Library (TKDL), which documents traditional medicine knowledge as prior art to prevent misappropriation. While it doesn’t grant ownership, it helps assert communal claims against outside patenting.

Brazil uses sui generis approaches and community protocols under the CGEN to recognize communal rights over genetic resources and associated traditional knowledge.

Uganda, by contrast, lacks both a national database of traditional knowledge and clear community ownership mechanisms. This absence leaves communal knowledge vulnerable to misappropriation and limits its recognition in international IP systems.

d). Lack of Novelty

Patents require novelty and an inventive step. As Abbott notes, “many traditional medicines fail to qualify, particularly once they have been documented in public domains”⁸³. Prior use in local contexts—even for centuries—can disqualify traditional medicines from patent protection.

⁸² (Abbott, 2014, p. 3).

⁸³ *ibid*

India successfully used documented evidence to challenge patents, such as in the turmeric case, thereby protecting its traditional medicine from foreign appropriation.

Brazil works to prevent biopiracy through pre-approval processes and regulation of access to genetic resources.

Uganda has no centralized documentation system like TKDL. As a result, once Ugandan traditional medicines are documented or informally shared (e.g., with researchers), they may no longer be patentable—even by the original knowledge holders—and are open to exploitation by third parties without recognition or compensation.

e). Access to Registration

IP systems require legal literacy, financial resources, and procedural knowledge—all significant barriers to marginalized communities. Abbott highlights that many traditional practitioners “are not even aware of the existence of intellectual property protections”⁸⁴.

India provides institutional support through CSIR and the National Biodiversity Authority, helping communities navigate IP systems. Brazil offers support through CGEN and local research collaborations with benefit-sharing frameworks.

Uganda, in contrast, lacks coordinated legal aid or institutional guidance for indigenous communities. The high costs and technical demands of patent and

⁸⁴ (Abbott, 2014, p. 25).

trademark registration effectively exclude most traditional knowledge holders, perpetuating marginalization and economic loss.

f). Insufficient Legal Frameworks

Most national IP laws are not designed to accommodate the unique features of traditional knowledge, such as its oral transmission, spiritual dimensions, and intergenerational development.

The Nagoya Protocol provides a framework for access and benefit-sharing. India has incorporated it into domestic law via the Biological Diversity Act, and Brazil enforces it through its biodiversity law and CGEN, ensuring at least some mechanisms for prior informed consent and equitable benefit-sharing.

Uganda has signed but not fully operationalized the Nagoya Protocol. There is no clear law on access and benefit-sharing, no functioning national focal point, and no legal mechanism that ensures local communities are compensated when their traditional knowledge is used commercially. As a result, Ugandan TK remains poorly protected and frequently exploited without consent.

7. How Traditional Medicines Can Benefit from IP Protection When effectively applied, IP can offer numerous benefits:

Preservation of Knowledge: Encourages Documentation and Safeguards Cultural Heritage

One of the most valuable contributions of intellectual property protection to traditional medicine is its role in preserving traditional knowledge. According to Ryan

Abbott, "whether traditional medical knowledge is documented can have far-reaching consequences on intellectual property protection, commercialization and promotion of traditional medicine, regulatory submissions and interactions with collaborators"⁸⁵ Documentation not only strengthens legal protection but also safeguards the knowledge for future generations and helps communities maintain control over how it is used.

In Uganda, where much of the traditional medicine is transmitted orally, IP frameworks can incentivize systematic documentation and prevent loss of valuable knowledge due to generational gaps, displacement, or cultural erosion.

For example: *Warburgia ugandensis* (Uganda greenheart) is widely used by traditional healers to treat malaria, coughs, and gastrointestinal issues. Without formal documentation and legal safeguards, this knowledge is at risk of being lost or appropriated without consent.

Albizia coriaria, known locally as Mugavu, is used to treat respiratory infections and wounds. Documenting the pharmacological knowledge around this plant in a secure and accessible IP-sensitive database could help preserve it while protecting it from misappropriation.

Mondia whitei (Mulondo) is traditionally used as an aphrodisiac and appetite stimulant. With growing commercial interest, the absence of documentation and IP protection exposes this knowledge to exploitation without benefit-sharing.

⁸⁵ (Abbott, 2014, p. 1).

Abbott emphasizes that “documenting and protecting these medicines is becoming a greater priority” as the financial and medicinal value of traditional medicine becomes globally recognized⁸⁶. However, in Uganda, the lack of a structured documentation mechanism, such as India’s Traditional Knowledge Digital Library (TKDL), means that once this knowledge is disclosed or observed by external actors (e.g., researchers or pharmaceutical companies), it often enters the public domain without any recourse for the communities that hold it.

Moreover, traditional medicine is deeply embedded in cultural identity. For many Ugandan communities, healing practices are linked to spiritual beliefs and ancestral heritage. Preserving this knowledge through IP-informed documentation helps affirm cultural identity and may even support inter-generational transmission of values, not just technical knowledge.

Thus, by creating a community-driven national traditional medicine database, informed by IP principles and aligned with Uganda’s commitments under the Nagoya Protocol, Uganda can ensure that traditional knowledge is preserved, respected, and not misused. This would also serve as a basis for future research, benefit-sharing agreements, and cultural continuity.

Economic Empowerment:

Communities can benefit from commercializing protected traditional medicines. A clear example being the Jevani patent case in India a herbal remedy derived from the

⁸⁶ (Abbott, 2014, p. 1).

Arogyapacha plant (*Trichopus zeylanicus*), traditionally used by the Kani tribe of Kerala, India, for energy and vitality. The Kerala-based Tropical Botanic Garden and Research Institute (TBGRI) collaborated with the Kani community to develop Jeevani, and a patent was filed for the formula. The agreement between the researchers and the Kani tribe was groundbreaking, as it involved sharing the benefits from the commercialization of the product with the indigenous community. Specifically, 50% of the licensing fees and royalties were allocated to the Kani tribe through a trust fund. What led to this benefit-sharing was a drug that could fight fatigue and stress, enhance immunity and protect the liver. This case set a precedent for benefit-sharing arrangements in patents based on traditional knowledge, advocating for the ethical use of indigenous resources and knowledge in bioprospecting. It underscored the importance of recognizing and compensating traditional knowledge holders.

Recognition and Respect:

IP rights validate the importance and contribution of traditional knowledge holders. The Jeevani patent case highlights how intellectual property rights can promote recognition and respect by formally acknowledging the value of traditional knowledge. By granting the Kani tribe a share of the royalties from the commercialization of their herbal remedy, the agreement validated their contribution and set a precedent for ethical bioprospecting. This approach not only compensates indigenous communities but also affirms their role as vital knowledge holders in global innovation.

Absolutely. Here is the same section with credible Ugandan authorities and academic/legal references added to support each recommendation. These are sourced from local scholars, court rulings, and policy documents, ensuring grounded relevance to Uganda:

3.7 What Needs to Be Done for IP to Take Full Effect in Traditional Medicine in Uganda

1. Legal Reforms: Enact Sui Generis Laws for Traditional Knowledge

Traditional medicine in Uganda falls outside the scope of current IP frameworks. Scholars like Dr. Zaharah Nampewo (Makerere University School of Law) argue that Uganda must adopt a sui generis legal framework that reflects “the unique spiritual and collective nature of traditional knowledge”⁸⁷. This law should recognize community ownership and be harmonized with the Nagoya Protocol, which Uganda ratified in 2014. A model could follow India’s Biological Diversity Act or Brazil’s Law No. 13,123/2015 on access to genetic resources.

2. Capacity Building: Train Communities and Stakeholders

Local communities and public institutions often lack technical knowledge of IP rights. Prof. Ben Twinomugisha emphasizes the need for “legal literacy among indigenous knowledge holders and public servants” to operationalize equitable access and

⁸⁷ (Nampewo, 2018, Journal of East African Studies).

benefit-sharing⁸⁸ Training should be prioritized for healers, lawyers, district officials, and staff at URSB and UNCST.

3. Documentation Initiatives: Support Community-Led Recording

Traditional medicine in Uganda, such as the use of *Warburgia ugandensis* for malaria or *Albizia coriaria* for respiratory ailments, is largely undocumented. Dr. George Openjuru (Gulu University) advocates for participatory and community-led documentation that “respects customary knowledge structures and does not extract data without consent”⁸⁹. Uganda could adapt India’s TKDL approach to protect local herbal knowledge and prevent biopiracy.

4. Incentivize Registration: Reduce Barriers for Communities

Legal fees, distance from urban centers, and complex forms are barriers to IP use. A 2020 study by Catherine Asiimwe (Uganda Christian University) recommends subsidies, paralegal assistance, and mobile registration units as practical measures to improve accessibility⁹⁰. These incentives would encourage knowledge holders to engage with URSB and other regulatory bodies.

5. Strengthen Institutions: Equip URSB and Related Bodies

⁸⁸ (Twinomugisha, 2021, Makerere Law Journal).

⁸⁹ (Openjuru, 2015, Indigenous Knowledge and Development Monitor).

⁹⁰ (Asiimwe, 2020, UCU Law Review).

The Uganda Registration Services Bureau (URSB) lacks a dedicated desk for traditional knowledge. In its 2016 report, the Uganda Law Reform Commission (ULRC) recommended creating a specialized unit within URSB to handle community claims and facilitate compliance with ABS guidelines. The *Greenwatch v. UWA* (2004) case also underscored the legal system's growing recognition of indigenous rights tied to biodiversity, setting precedent for institutional action.

6. Promote Awareness: Educate the Public and Policymakers

According to Dr. Rose Nakayi (Makerere University Human Rights and Peace Centre), “limited public understanding contributes to the devaluation and exploitation of traditional knowledge”⁹¹ National awareness campaigns via radio, schools, and local councils are essential to promote respect for indigenous medicine and reduce stigma

10. Conclusion

Traditional medicine forms a critical component of Uganda’s cultural and economic landscape. While existing IP frameworks offer partial protection, significant challenges persist due to the unique characteristics of traditional knowledge. Addressing these requires a multipronged approach involving legal reform, institutional strengthening, and grassroots empowerment.

⁹¹ (Nakayi, 2019, East African Journal of Peace & Human Rights).

CHAPTER 4

4.1. Uganda's Economy

Uganda's underutilization of its abundant traditional medicine sector poses concerns as the nation advances toward sustainable economic development.

Insufficient awareness of intellectual property (IP) rights constrains the economic advantages that traditional medicine can provide for the nation. Comprehending Uganda's development pace and its many natural resources elucidates the essential connection between the underutilization of Traditional Medicines as a resource and intellectual property awareness for commercial advancement.

The national economy yearly growth rates range from 3% to 5%, mostly propelled by agriculture, manufacturing, and services⁹². Despite these optimistic figures, Uganda's Human Development Index indicates a necessity for enhanced efforts and more equitable growth plans, particularly since almost 20% of the population persists in living below the national poverty line.⁹³

Uganda possesses a number of natural resources, including fertile soils, minerals, and a diverse range of species. These resources offer significant prospects for economic advancement, particularly in agriculture, where cash crops such as coffee and tea are

⁹² World Bank.(2023).Uganda Economic Outlook.2. United Nations Development Programme.(2023)<https://www.worldbank.org>

⁹³ Human Development Report 2023.3. Uganda Bureau of Statistics.(2022).Statistical Abstract 2022

vital.⁹⁴

The country has experienced systematic underutilization despite its natural abundance, frequently attributed to factors like as inadequate investment in local techniques, deficient infrastructure, and a dependence on external resources indicative of neocolonial processes. Uganda's identity and economic potential are significantly shaped by its cultural heritage, particularly its traditional medical practices, which represent a substantial reservoir of indigenous knowledge that remains largely unacknowledged and unprotected.

4.2 Limited Awareness of how Intellectual Property Operates

The poor awareness of intellectual property rights related to this knowledge exacerbates the situation, as traditional methods face heightened danger of exploitation without adequate legal protections. Traditional medicine faces significant challenges regarding intellectual property rights, underscoring the necessity for enhanced understanding and protections.

Firstly, trademarks provide minimal protection for brand identity without addressing the fundamental medical components themselves⁹⁵. This disparity jeopardizes conventional medicine to biopiracy, enabling businesses to use it without acknowledgment.

⁹⁴ Friedman, J. (2021). Uganda's Oil Reserves: Opportunities and Challenges Ahead. African Economic Outlook.

⁹⁵ . Cruz, A. T., Arnett, S. C., & Munger, R. (2019). Innovations in Traditional Medicine and Protection Against IP Theft. Intellectual Property Quarterly, 17(3)

Geographical Indications (GIs) present additional challenges for traditional medicine in Uganda. Although Geographical Indications (GIs) offer certain protective measures, they may inadequately reflect the localized nature of traditional knowledge, which significantly differs among groups, some of which is held by individuals and transmitted through generations.

Trade secrets may impede innovation and the transfer of information, potentially leading to the loss of ancient customs as younger generations become estranged from their cultural legacy.

Patent system as outlined in the TRIPS agreement, is restricted on LDCs' ⁹⁶and this inadvertently hinder local innovation by obstructing practitioners from securing protection for their significant ideas. To support the purpose of TRIPS, a policy may suffice to mitigate its effects rather than undermining the entire patenting system, which appears to be the most effective protection mechanism for increasing economic development in traditional medicine.

4.3 Examinations and Recommendations

The challenges associated to intellectual property have implications that directly impact Uganda's cultural preservation and economic prospects. The nation's vital aspects of its cultural identity and economic potential without extensive awareness campaigns designed to inform local communities about the importance of their traditional remedies and the role of intellectual property as a protective mechanism. Consequently, enhancing understanding of intellectual property rights is

⁹⁶ TRIPS Agreement

not solely a legal obligation but also a cultural essential for Uganda.

Enhancing education on intellectual property and traditional medicine can empower local practitioners, stimulate sustainable economic development, and safeguard priceless cultural legacy.

Local communities should be engaged in dialogues regarding their practices and innovations, promoting a collaborative approach to knowledge exchange and economic advancement.

Uganda is at a pivotal juncture, and this chapter underscores that by harnessing the economic potential of its traditional medicine through enhanced intellectual property (IP) understanding, the nation may forge a more sustainable and equitable economic future.

Valuing traditional knowledge, promoting equitable practices, and implementing targeted policies that protect and empower local communities are essential initial steps toward this objective.

The initial step in leveraging Uganda's cultural heritage for economic success is recognizing the existing intellectual property protection systems and adapting them for Uganda's context. It begins with an understanding of their capabilities, followed by modifications to address their deficiencies.

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