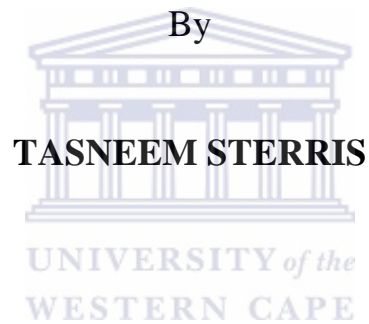


**TRADITIONAL HEALTH PRACTITIONERS:
A 'CALL' FOR LEGISLATIVE REFORM
IN SOUTH AFRICA
BETWEEN 1891 AND 2004**



Submitted in partial fulfilment of the requirements for the degree of Masters of Law
University of the Western Cape
Cape Town

November 2006

DECLARATION

This mini-thesis asserts the original work of the author. Where work other than the authors' opinions have been used that work has been acknowledged by the author in the body of this mini-thesis.

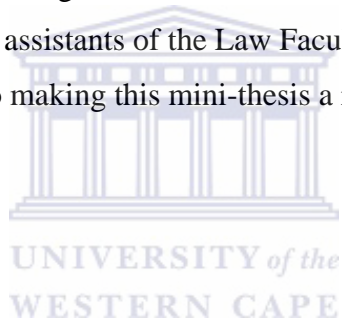
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Key words

Acquired Immune Deficiency Syndrome (AIDS)

Constitution of 1996

Human Immune Virus (HIV)

Primary Health Care (PHC)

Right of access to health care services

Southern African Development Community (SADC)

Traditional Health Practitioner

Traditional Health Practitioners Act 35 of 2004

United Nation Programme on HIV/AIDS (UNAIDS)

World Health Organisation (WHO)



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CHAPTER 1: GENERAL OVERVIEW

This mini-thesis aims to explore the various legislative provisions that have affected traditional health practice in South Africa. The discussion is limited to the period dating from 1891 to 2004. The relevance of this period is that during the 19th and early 20th centuries traditional healing has gone through some turmoil as the governments of that period promulgated legislation, which curtailed the practice of traditional healing. Prior to this legislative intervention traditional healers of all types had been practising traditional healing freely and unhindered.

The Traditional Health Practitioners Act of 2004 has not yet come into operation but is by far the most liberal piece of legislation on traditional healing that South Africa has ever seen. Not only are herbalists allowed to practise freely but so too are diviners. The purpose of the THP Act is to develop an Interim Traditional Health Practitioners Council of South Africa, to provide for the registration, training and practices of traditional health practitioners in South Africa and to serve and protect the interests of members of the public who use the services of traditional health practitioners.

The prohibition on certain healers from practising has long been the position in certain statutes thus merely emphasising the stance of the colonial government on the practice of divination. As the practice of traditional healing is deeply rooted in African religion their ideas of illness and cures do not conform to scientific ideas of illness and healing. For this reason there had been many negative connotations attached to the practice of traditional healing and subsequently led to the government enacting legislation prohibiting the superstitious practice of divination. In other words, diviners who in essence relied on the art of divination to obtain medical guidance to treat their patients were not allowed to practice for gain. The motive of the colonial government was that divination was not scientific in nature but could also lead to an increase in the practice of

witchcraft. Herbalists on the other hand who relied on herbal remedies to assist their patients were allowed to practise but under limited circumstances. Legislation that had been put in place during the early 20th century had been promulgated after outrage was received from the western medical fraternity. Thus the Medical, Dental and Pharmacy Act were promulgated. Herbalists who wished to have their licenses renewed had to apply through the western medical bodies. This aspect discouraged herbalists from obtaining licenses and thus led to a decline in the number of licensed herbalists. The rift between biomedicine and traditional healing manifested itself very clearly at this point, 1926. The long-term effects of this rift can be felt today. Traditional healers and western medical practitioners battle to collaborate with each other. This problem has even more far-reaching consequences than one would hope to admit.

The problem surfaces in that we fail to accept that traditional healers can play a decisive role in the HIV/AIDS epidemic. However rifts between biomedicine and traditional health have made this a difficult task. The World Health Organisation (WHO) had adopted this stance of incorporation when they urged countries to incorporate traditional healers into HIV/AIDS programmes. The WHO recognises that traditional healers are a resource, which should be tapped into especially in developing countries where there is a scarcity of medical practitioners and a limited amount of financial funding to develop adequate HIV/AIDS care and counselling.

The integration of the western medical practitioner and the traditional healer is imperative in this regard so that a better HIV/AIDS plan could be put in place. South Africa's rate of HIV infections and AIDS related deaths are increasing on a yearly basis.¹

Traditional healers have however not been completely innocent in the HIV/AIDS debacle. They have been accused of spreading the disease by infecting persons with unsterilized razor-blades and have been accused of reinforcing warped ideas that sex with a virgin could cure AIDS. All these issues can only be remedied once an adequate training and education programme has been instituted. We should look to other countries

¹ See footnote 350 *infra*

as an example in this regard. An essential training programme would include educating traditional healers on all the pertinent issues surrounding HIV/AIDS and prevention. It has been said that healers should encourage their patients to seek western medical care at a health facility if it is established that they have contracted the HIV virus.

The Traditional Health Practitioners Act has made it a crime for a traditional health practitioner to profess to have knowledge of a cure or has a cure for HIV/AIDS or any other terminal illness. The THP Act narrows the scope that traditional healers have in relation to treating terminal illnesses.

This mini-thesis also asserts on whether the right to adequate health care also includes the right the public may have in seeking medical advice from traditional healers. In this regard there are many international instruments, which deal with the right to health care. Health care is defined as a basic and necessary socio-economic right. International instruments have reiterated time and again that governments have a duty to respect, protect and promote health care in their countries. However this can only be done by developing adequate health policies and legislation.

The Constitution also mentions various rights, which enshrine the practice of traditional healing. The Bill of Rights refers to the right to human dignity; the right to privacy; the right to equality and non-discrimination; the right to freedom of conscience, religion, expression, thought, belief and opinion; the right to freedom of trade, occupation and profession; the right to have the environment protected; and finally the right to access health care services. All these rights can be construed as providing adequate constitutional recognition for the rights, which traditional healers have. They will be discussed in lengthy detail in this mini-thesis.

There are still many obstacles in the way of traditional healing. One such obstacle is that there is still a desperate need for collaboration between biomedicine and traditional healing. The sooner it takes for this obstacle to be overcome the sooner the realisation of an even more efficient HIV/AIDS programme can be realised.

Traditional healers are a feasible resource especially in the face of South Africa's growing HIV infections and AIDS related deaths.



CHAPTER 2

LITERATURE REVIEW AND RESEARCH METHODOLOGY

2.1 Introduction

Traditional healing is a tradition rich in culture. Traditional healers have been practicing the art of healing for centuries without any intervention. They have utilised the knowledge that they have gained from their ancestors and assisted many people in not only finding a curative solution to their problems but have also provided some form of psychological support. However as with all cultures and traditions intervention from the government is rife. During the 19th century the culture of traditional healing was received with many negative attitude not only from government but also from missionaries who came to the country in order to ‘save’ this ‘superstitious’ people.

This mini-thesis focuses on the art of traditional healing in a legislative context. It is however impossible to discuss traditional healing without providing an overview of African traditional religion. Chapter two of this mini-thesis therefore focuses on an introduction to African religion. Chapter three forms the basis of this mini-thesis by delving into the various pieces of legislation that have governed this practice and referring in great detail to the most recent statute, the Traditional Health Practitioners Act 35 of 2004. This part has however been limited to a discussion of legislation dating from 1891 to 2004. The international community has made many recommendations on the incorporation of traditional healers into the health system. Therefore the stance and recommendations of the World Health Organisation (WHO) is referred to in chapter five as well as the opinion of the Southern African Development Community (SADC) incorporating the national perspective. The culture of healing and the incorporation of traditional health practitioners into Primary Health Care programmes in South Africa is the final aspect of this chapter and incorporates the practical implications of how traditional healers would benefit primary health care. The final chapter of this mini-thesis, chapter six will focus on how traditional healers could assist in the HIV/AIDS pandemic as well as a brief discussion on the right of access to health care services in a South African perspective.

2.2 Traditional African religion

It is difficult to understand the concept of traditional healers when one does not understand how and where they fit into African religion. Generally speaking African religion consists of three main role players. As my research has indicated African religion consists of God, the ancestors and finally traditional healers.²

Idowu mentions that the elements of African religion are the belief in God, belief in divinities, belief in spirits, belief in ancestors and practice of magic.³ These elements are all interrelated and form the basis of African religion in a holistic perspective.

We therefore ascertain that there is a hierarchical manner in which African religion functions. At the first instance God is the most important role-player as with all other religions. Second to Him are ancestors and finally the traditional healer who forms the basis of this mini-mini-thesis.

The role of God was never highly developed in the African religion.⁴ However it has been asserted that God delegates His power to the ancestors so that they may handle everyday affairs too trivial for God to deal with.⁵ Contrary to popular belief God therefore does exist in the African religion. However the role that God plays in the African religion may not necessarily conform to the role of God in a 'western' sense.

As mentioned earlier God ordains powers to every ancestral spirit of each family.⁶ Ancestral spirits in the African religion have a closer relationship to God than do ordinary persons.⁷ The ancestors therefore play the role of intermediary acting as a link between God and people who wish to communicate with Him.

² Mbiti, JS Introduction to African religion 11

³ Idowu, BE Traditional African religion 139

⁴ Hammond-Tooke, D The roots of Black South Africa 149-150

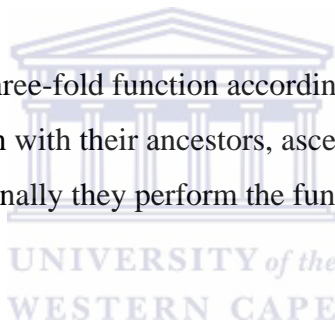
⁵ Broster, JA Amaqhira- religion, magic and medicine in Transkei 17

⁶ Broster *ibid*

⁷ Mbiti *op cit* 68

Ancestors are the spirits of those who have passed on. In the African religion, as mentioned by Idowu, rituals and customs play a decisive role. Once a person dies the proper burial rites should be performed. However the status of the person in the spirit-world would depend on the status of the person in this world.⁸ The ancestors who have been accepted as ancestral spirits may now communicate with the living. This form of communication is important as it is in this way in which traditional healers; more specifically diviners obtain their 'calling.' One of the many ways in which ancestors communicate with the living is through dreams and this is the most common form.⁹ Traditional healing in its very nature is based on tradition, culture and magic. The latter aspect has led to much speculation as to whether traditional healers should be incorporated into the health care system, as it has no scientific basis. Be that as it may, traditional healing has the practice of 'magic' as its very basis.¹⁰

Traditional healers perform a three-fold function according to Holland. She asserts that traditional healers keep in touch with their ancestors, ascertain the causes of misfortune and prescribing remedies and finally they perform the function of administering herbs to treat disease.¹¹



Southern Africa has an array of traditional healers. However this mini-thesis will place emphasis on the diviner and herbalist. Diviners receive a 'calling' from their ancestors to become traditional healers.¹² Broster also mentions the three-fold function asserted by Holland referred to earlier. The diviner therefore performs the function of religion, magic and medicine.¹³

The diviner undergoes a state of *ukuthwasa* and is then placed under the supervision of an *igqirha* to undergo the necessary training.¹⁴ The training process may be a long and

⁸ Broster *op cit* 17

⁹ Nyirongo, L The Gods of Africa or the Gods of the Bible 82

¹⁰ Idowu *op cit* 196

¹¹ Holland, H African magic – traditional ideas that heal a continent 8

¹² Hammond-Tooke, D Blacks in South Africa 187

¹³ Broster *op cit* 15

¹⁴ Broster *op cit* 23

tedious one. However, once completed the person is then an *igqirha* and may practice as such.

The herbalist on the other hand does not perform any divination as the diviner does. The herbalist has merely gained knowledge relating to plants and herbal remedies from knowledge passed down from generation to generation.¹⁵ It may often occur that diviners and herbalists perform their functions interchangeably.¹⁶

2.3 Legislative reform from 1891 to 2004

Traditional healing has been part and parcel of the African religion for centuries. Africans have been practicing traditional healing freely and without any hindrances from the outside world. However with the advent of colonialism the status of traditional healing and thus traditional healers changed. It may be argued that colonialism led to the ultimate 'professionalisation' of the practice as traditional healing became codified in many pieces of legislation and was therefore granted some recognition. An opposing view would be that colonialism led to the ultimate rift between western medicine and traditional healing as we experience it today. This rift has had negative consequences for the incorporation of traditional healers into health care programmes up to the present day. I support the latter view.

During colonial times, custom existed on the one side and the law of the coloniser on the other.¹⁷ Colonists tried to bring traditional healing into the realm of 'civilised law' as they saw the practice of custom as 'uncivilised' and 'superstitious.' It is my submission that the only way this government could control the practice was to promulgate legislation to regulate it.

The restrictions placed on traditional healers were embodied in many pieces of legislation. All these statutes then merged to form the Natal Native Code.¹⁸ Section 268

¹⁵ Holand *op cit* 13

¹⁶ Bryant, AT Zulu medicine men and medicine men 13

¹⁷ Mamdani, M Citizen and subject: Contemporary Africa and the legacy of colonialism 111

¹⁸ Gumede, MV Traditional healers: a medical practitioners perspective 91

of this piece of legislation had negative implications for traditional healers who practised as diviners, rainmakers, sky herds etc. It therefore meant that only herbalists (the difference to be discussed in Chapter 2) could practice for gain. Another proviso included in this regard was that herbalists could only ply their trade ‘among their own people.’¹⁹ Section 129 of the Code reinforced this prohibition. It stated that diviners, rain-doctors or lightning doctors shall be guilty of an offence.²⁰ It was in this section that the government further mentioned and restricted the practice of witchcraft. It expressly mentioned that a person who professes to have knowledge of witchcraft or the use of spells, charms and advises a person on how to bewitch or injure another person or property or supplies a means to administer witchcraft shall be guilty of an offence.²¹

The practice and belief in witchcraft is however part of the African religion. It is believed that any calamity, such as illness were to befall someone then that person has become the victim of witchcraft.²²

Even though legislation prohibited diviners from practicing for gain herbalists who were duly licensed were still allowed to practice.

This leads us to the discussion on another draconian piece of legislation, the Medical, Dental and Pharmacy Act of 1928. This Act was promulgated into law after uproar had been received by western medical practitioners.²³ They were outraged at the fact that government still endorsed herbalists to practice.²⁴ In response to this they then formed the South African Medical Association in 1926 and it was under this body that the Medical, Dental and Pharmacy Act was promulgated.²⁵ Under this Act herbalists who renewed their licenses had to re-apply through the Minister of Public Health. This discouraged

¹⁹ Gumede *ibid*

²⁰ Gumede *op cit* 92

²¹ Gumede *ibid*

²² Parrinder, G Witchcraft : European and African 129

²³ Devenish, A Negotiating healing: the professionalisation of traditional healers in Kwazulu-Natal between 1985 and 2003 45

²⁴ Devenish *ibid*

²⁵ Devenish *ibid*

many herbalists and ultimately led to a decline in the number of licensed herbalists.²⁶ The Act had even more dire consequences for the future of traditional healers. It reinforced the idea that western medicine were supreme and that traditional health had no place in the health care system.

The Witchcraft Suppression Act of 1957 and its amendment were also instrumental in restricting the practice of traditional healers. The Act prohibited witchcraft in any form and persons guilty of an offence under this Act were liable to pay a fine or would be imprisoned.²⁷ The Act is however still relevant today. There has been much speculation about this Act. There are at least three bodies that have tried to investigate and review the Witchcraft Suppression Act. However these bodies had only become operative since 1996 to 1999. The essence of their portfolio will be referred to in point 4.4 of the body of this mini-thesis.

Another Act that is of relevance for this mini-thesis is the Kwazulu Act on the Code of Zulu Law 6 of 1981. This piece of legislation basically reinforces the stance held previously. Herbalists are allowed to practice but diviners are not.²⁸

Reference is then made to the final and most important piece of legislation in relation to the practice of traditional healing the Traditional Health Practitioners Act.²⁹ This Act has changed the legal position of all traditional healers as opposed to the stance in the past. Diviners and herbalists are now allowed full legal recognition. The purpose of the Act is three-fold: To provide for the establishment of the Interim Traditional Health Practitioners Council of South Africa, to provide for the registration, training and practices of traditional health practitioners and to serve and protect the interests of members of the public who use the services of traditional health practitioners.³⁰ Thus one of the most important features of the THP Act, for traditional healers who wish to

²⁶ Devenish *op cit* 48 (As referred to in Flint, K Negotiating a hybrid medical culture: African healers in South-Eastern Africa from the 1820's to the 1940's 216)

²⁷ Section 1(i) – (iv)

²⁸ Refer to discussion point 3.5 in body of mini-thesis

²⁹ 35 of 2004

³⁰ Chapter 1 Section 2(a) – (c)

practice as such, is the requirement for registration as a traditional healer.³¹ In brief if a traditional healer wished to practice in South Africa he/she would have to make an application to the registrar in which he/she provides proof of South African citizenship, character references, proof of his/her qualifications, the prescribed registration fee and any other information the council would deem necessary.³²

The THP Act is by far the most revolutionary as it reinforces the full extent to which traditional healers are recognised. Traditional healers in South Africa are now granted full legal recognition, a position that they have been fighting for in the past. All these pieces of legislation form the basis of chapter four and will therefore be discussed in detail.

2.4 World Health Organisation, Southern African Development Community and the incorporation of Traditional healers into Primary Health Care Programmes

The World Health Organisation is the International forerunning body on health issues. Therefore it would seem fit that I refer to their recommendations on traditional healing. I have encountered that since 1978 in their Alma Declaration, they have referred to traditional healing. This declaration had been established after which the WHO had formulated a meeting on the 'Promotion and Development of Traditional Medicine' in 1977. In this Declaration the WHO urged governments to incorporate traditional health practitioners into their primary health care programmes. They have furthermore encouraged the integration between traditional healers and western medical practitioners an area in which South Africa is currently lacking. The WHO division of strengthening of health services and the traditional medicines programmes has written an extensive report on the training and development of traditional healers. These recommendations include that of developing adequate training programmes, relating the course material in an easy to understand manner and to develop evaluation mechanisms that would best suit the audience. These recommendations should be taken strict heed of by countries that wish to

³¹ Section 21 of the THP Act

³² Section 21(2)(b)(i)-(v)

not only develop better partnerships between traditional healers and bio-medical practitioners but also to promote a better quality of health care as opposed to better quantity.

At a national level the Southern African Development Community has not been silent in this regard. They have developed the SADC Protocol on Health in which they refer to traditional healers quite expressly. As the WHO they also urge state parties to regulate the practice of traditional healing and assist in the co-operation between traditional health practitioners.³³

Kleinman asserts that when one attempts to understand healing in a particular health care system, then one has to acknowledge that the health care needs of society are reflected.³⁴ Traditional healers play a pivotal role in the society within which they practice. They are aware of the social constructs and their patients relate to them well³⁵. For this reason traditional health practitioners are able to assist people in rural areas more readily with their health care requirements.³⁶ Chana *et al* further asserts that as cultural factors affect the health ideologies of certain communities so too does political, economic, social cultural, historical and environmental determinants affect it.³⁷ This has been reflected in the practice of traditional healing during the late 20th century. Xaba further documents this quite well and argues that during the period when political oppression was rife, the oppressed African people relied quite extensively on the ‘magic potions’ of traditional healers.³⁸

This led to the negative attention received by traditional healers as they were closely linked to the practice of witchcraft.³⁹ The Ralushai Commission was established in

³³ Article 20

³⁴ Kleinman, A Patients and healers in the context of culture, an explanation of the Borderland between anthropology, medicine and psychiatry 24

³⁵ UNAIDS Case Study Ancient remedies, new disease: Involving traditional healers in increasing access to AIDS care and prevention in East Africa 7

³⁶ UNAIDS Case Study *ibid*

³⁷ Chana, HS, Schwab, L and Foster, A With an eye to good practice: traditional healers on rural communities 145

³⁸ Xaba, T The transformation of indigenous medical practice in South Africa 23

³⁹ Xaba *ibid*

response to the increase in number of ‘witch-killings’ and ‘muthi-killings.’⁴⁰ This reinforced the apparent link between traditional healers and witchcraft. This ultimately led to the negative attitudes attached to traditional healers especially from the western medical perspective.

This has made the incorporation of traditional healers into PHC programmes exceedingly difficult as collaboration between these two paradigms need to be attained first.⁴¹

However much has been documented on the incorporation of traditional healers into PHC programmes. One has to acknowledge that this is a resource worth tapping into. Freeman and Motsei have written extensively on this issue. Their recommendations are well formulated and form the bulk of this part of this mini-thesis.

2.5. Traditional healers and HIV/AIDS

The World Health Organisation has once again been one of the most foremost authorities for this mini-thesis. The WHO has further recognised the role that traditional healers can play in the fight against HIV/AIDS.

The UNIADS (United Nations programme on AIDS) has also referred to the incorporation of traditional health practitioners so as to alleviate the HIV/AIDS pandemic. They have argued that the only way in which the disease can be combated is if there is an increase in resources⁴² and therefore in this regard traditional health should be tapped into as a viable resource.⁴³

The SADC has developed a Protocol on HIV/AIDS and also encourages partnerships between traditional health practitioners and other stake-holders to accurately intervene in areas such as HIV/AIDS surveillance, prevention, treatment, care, support, monitoring,

⁴⁰ Xaba *op cit* 34

⁴¹ Freeman, M and Motsei, M Planning health care in South Africa- is there a role for traditional healers? 1183

⁴² UNAIDS Case Study 2002 Ancient remedies, new disease : Involving traditional healers in increasing access to AIDS care and prevention in East Africa 5

⁴³ UNAIDS Case Study 2002 Ancient remedies, new disease : Involving traditional healers in increasing access to AIDS care and prevention in East Africa *ibid*

research, nutrition, poverty eradication and adequate resource mobilisation for combating the HIV/AIDS pandemic.⁴⁴

Leclerc-Madlala has written an interesting article in this regard. Most of this writer's work is referred to as a source for this topic. She asserts that the incorporation and use of traditional health practitioners in the HIV/AIDS epidemic is not as easy as portrayed to be.⁴⁵ The problem, according to her is that HIV/AIDS is largely controlled by the 'bio-medical fraternity' and that this very fraternity has blatant disregard for the role that traditional healers can play in strengthening HIV/AIDS prevention and care.⁴⁶ This is problematic especially when trying to institute an integrated plan within which traditional healer and western medical practitioner perform the common function of assisting in HIV/AIDS related care. Be that as it may, the incorporation of traditional healers would be beneficial for the government's HIV/AIDS policy. Leclerc-Madlala further states that training traditional healers on issues relating to HIV/AIDS such as how the disease is spread would be beneficial in combating the spread of the disease.⁴⁷

2.5.1 Right of access to adequate health care services

Many international instruments refer to the right of access to adequate health care services. These instruments as well as the protections under the Constitution form the basis of this section.

The right to health is only realised once other instruments and policies in this regard are formulated. This is according to General Comment No.14 of 2000.⁴⁸ Furthermore it stipulates that where indigenous people are prevalent then the health services should be culturally appropriate, taking into account traditional preventative care, healing practices and medicines.⁴⁹ Article 12 of the International Covenant on Economic, Social and Cultural Rights also mentions that health is one the most fundamental rights of every human being. The international standard of health places various obligations on states to

⁴⁴ SADC Declaration on HIV/AIDS Preamble 2-3

⁴⁵ Leclerc-Madlala, S Traditional healers in the fights against HIV/AIDS in South Africa 62

⁴⁶ Leclerc-Madlala *ibid*

⁴⁷ Leclerc-Madlala *op cit* 66

⁴⁸ General Comment No.14 of 2000 'The right to the highest attainable standard of health' 679

⁴⁹ General Comment No. 14 *op cit* 686

ensure that right to health is respected and protected and that states should furthermore fulfil basic rights.⁵⁰

Other than the international obligations placed on states the Constitution of South Africa also mentions the right of access to health care services. This would in my opinion include the right of every citizen to consult traditional healers if he/she so chooses. The Constitution mentions other rights such as the right to human dignity; the right to privacy; the right to equality and non-discrimination; the right to freedom of conscience, religion, expression, thought, belief and opinion; the right to freedom of trade, occupation and profession; and the right to have their environment protected.

All these rights are entrenched in the Constitution and provide for the protection of traditional healing practices. For an extensive discussion on how these rights affect traditional healing please refer to point 6.4 in this mini-thesis.

2.6 Research objectives

The aim of this research is to identify the various pieces of legislation that have governed the practice of traditional healing since 1891 to the present day. The Traditional Health Practitioners Act 35 of 2004 is mentioned in lengthy detail in this regard as it has revolutionised the way in which traditional healing is viewed in the present day and is the most up to date piece of legislation regulating the practice. The various procedures that are mentioned in the THP Act have been highlighted as they best portray the requisite persons have to comply with in order to practice as a traditional health practitioner in South Africa.

2.7 Research questions

Below is a list of carefully formulated questions, which I have used in order to formulate this mini-thesis. They form the crux of the research areas referred to. They are as follows:

- Are there any statutes that govern the practice of traditional healing?

⁵⁰ Chirwa, DM 'The right to health in international law: Its implications for the obligations of state and non-state actors in ensuring access to essential medicine' 558

- Is it possible for traditional healers to be incorporated into the health care system and would this incorporation be beneficial to the national health care programme?
- Is it possible for traditional healers to assist with regard to the HIV/AIDS epidemic?
- Lastly whether the right of access to health care services as guaranteed by the constitution also constitute services provided for by traditional health practitioners?

2.8 Rationale/background

It is estimated that 70-80% of South Africans consult traditional healers for one or another 'medical' and/or 'spiritual' problem. Although the prescribed remedies may not always work, patients often subjectively believe that it does in fact assist them.

As so many people in South Africa rely on the services of traditional healers there was a need to regulate this practice. This led to the promulgation of the Traditional Health Practitioners Act 35 of 2004. It needs to be borne in mind that the entire Act has not come into full operation yet and requires Presidential assent in order for it to become a binding statute. The western medical community has for some time been outraged at the suggested incorporation of traditional healers into primary health care systems. One of the many arguments raised are that traditional healing has no scientific basis and reliance is placed on 'superstitious' beliefs about illnesses and disease.

However, traditional healers are a valuable resource and could be utilised to benefit the health care system as a whole. Various international organisations have lobbied for the inclusion of traditional health practitioners in primary health care programmes. The International community has also asserted that traditional health practitioners could assist in HIV/AIDS programmes provided they undergo efficient training programmes.

The right of access to adequate health care services therefore include the services offered by traditional health practitioners. These rights are enshrined in the Constitution of South Africa, of 1996 and various other international and national instruments.

2.9.1 Data collection

While researching the mini-thesis I made use of desktop-based research only. My research includes books, articles and various pieces of legislation. The books I have obtained relate mainly to the African religion, which forms the basis of chapter three. The articles obtained however focus more on new developments in traditional healing and refer to international instruments as a secondary source. Finally and most importantly I have obtained various pieces of legislation dating from 1891 to 2004 dealing with the legal aspects of traditional healing.

2.9.2 Problems encountered with data collection

One of the most difficult tasks in obtaining the data was that there was insufficient information on the legal aspects of traditional healing. This indicates that there are not many who have written on traditional healing in the legal paradigm. Encountering information on the different types of traditional healers proved to be another problem. As we know there are many different cultural groupings in South Africa. This made it difficult to establish the exact essence of traditional healing as some groups have differing opinions on certain issues. However focus was placed on the Nguni groups, which obviously meant that they shared a similar approach.

2.10 Delimitation of study area

This mini-thesis does not focus on traditional medicine, which is therefore not discussed in lengthy detail.

The various issues as to how HIV/AIDS is contracted and debates regarding the origin of HIV/AIDS will not be discussed.

This mini-thesis will thus be limited to the different mechanisms in which traditional healers could aid in the fight against HIV/AIDS merely as counsellors.

Furthermore, the main focus of this mini-thesis is on South Africa and not other countries. The various international bodies such as the WHO (World Health Organisation), UNAIDS (United Nations programme on HIV/AIDS) as well as the SADC recommendations and declarations will also be referred to.

CHAPTER 3 - INTRODUCTION TO AFRICAN RELIGION AND TRADITIONAL HEALERS

3.1 Introduction

In order to understand the concept of traditional healing and traditional medicine it is important that we delve into a discussion on traditional African religion. This chapter will focus on the position of God in the African religion as well as the role the ancestors play when one is 'called'⁵¹ to become a traditional healer. As my research has indicated the African religion is structured in a hierarchical manner, which means that God is the Supreme Being who designates powers to the ancestors, then in turn the ancestors are the beings who call their descendents to the path of healing.

A prominent feature of most religions is that they consist of certain elements, which give the religion its depth and meaning. In my research I have encountered at least two writers who share the same view with regard to the basic tenets of a religion. Mbiti writes that religion consists of five parts of which all five elements may not necessarily have to be present.⁵² These five elements are beliefs; practices; ceremonies and festivals; religious objects and places; and morals and values and religious officials or leaders.⁵³

In addition to these five elements Idowu describes a similar five-fold structure inherent in the African religion. These elements are the belief in God, belief in the divinities, belief in spirits, belief in the ancestors, and the practice of magic.⁵⁴

Although these elements are not identical, their ideas reflect a similar approach to African religious elements. From both models mentioned above we deduce that the African religion is premised on these main concepts: God, ancestors, divinities and magic. This chapter will follow that exact structure and aims to explore the African concept of God,

⁵¹ Referred to as *Ukuthwasa*

⁵² Mbiti, JS Introduction to African religion 11

⁵³ Mbiti, *ibid*

⁵⁴ Idowu, BE African traditional religion 139

belief in the divinities, belief in the ancestors and in so doing would ultimately lead to the focus of this mini-thesis, African traditional healers.

3.2 African belief in God

It is often misconstrued that Africans do not believe in God or that they place God in the same position as they would their deceased ancestors. This is a misconception as Africans have strong ties with God as far as their religious practices are concerned.

3.2.1 What is the role of God in African society

Africans believe in God and therefore acknowledge his existence. They often pray to this Supreme Being via the ancestors.⁵⁵

There had however been much speculation about what the exact role of God was, especially so to the Southern Bantu speaking groupings such as the Venda, Xhosa, Zulu, and Sotho and so on.⁵⁶

According to Hammond-Tooke, the concept of God as a supreme being was not highly developed in the African belief system.⁵⁷

In fact the role of God was only attributed to the creation of the world and it was furthermore that humankind had been left to fend for themselves.⁵⁸ It is furthermore important to mention that the role God plays in African society may find a different application and meaning in respect of the '...sociological structure and climate.'⁵⁹ This would therefore imply that different societies have different concepts of God and what the role of God entails.

⁵⁵ Broster, JA 'Amaqhira – religion, magic and medicine in Transkei' 15

⁵⁶ Hammond-Tooke, D 'The roots of black South Africa' 149-150

⁵⁷ Hammond-Tooke *ibid*

⁵⁸ Hammond-Tooke *ibid*

⁵⁹ Idowu, BE 'African traditional religion' 148

God is regarded as the Supreme Being and He created this the world and all that is found therein.⁶⁰ ‘He lives in the heavens and rules the world, but he is not concerned with everyday affairs.’⁶¹ God delegates these functions to the ancestral spirits of each family.⁶²

3.2.2 Where did the African concept of God originate?

Mbiti alleges that one cannot actually attest as to where and in which way the African concept of God originated.⁶³ He does however summarize the possible factors, which may have contributed to the origin of the African God in three main headings.

- (1) People came to believe in God through reflecting on the universe
- (2) People realised their own limitations
- (3) People observed the forces of nature

These factors, according to Mbiti, all illustrate the origin of God in the African religion. Man saw himself at the centre of the universe and gazed up at the sky into the heavens, which God controls.

These concepts seem to follow a trend in the conceptions of African religion and thought. Nyirongo also illustrates this when he states that theologians believe that before Africans came into contact with the Gospel⁶⁴, their concepts of religions had been premised on the same concepts that Mbiti has mentioned.

These concepts are as such: ‘(a) his belief in the existence of God as the Almighty and the Creator of all things, (b) his acknowledgement of attributes such as purity, infinity, eternity, immutability, omnipresence, sovereignty, and providence, which set God above

⁶⁰ Broster *op cit* 17

⁶¹ Broster *ibid*

⁶² Broster *ibid*

⁶³ Mbiti, JS *op cit* 45

⁶⁴ Nyirongo, L The Gods of Africa or the Gods of the Bible? The snares of African traditional religion in a biblical perspective 11

man and (c) on the basis of (a) and (b), his dependence on God as the Provider of all good things – rain, many children, prosperity, health and long life.’⁶⁵

The African belief system is based on the notion of God as is understood by the Western world. God does exist in the African religion. God fulfils the role of Creator of all things and that of Supreme Being; he is sovereign and the provider. Although God is the creator of all things does not necessarily concern Himself with the trifles of everyday human life. These powers and duties are ordained to the ancestors.

3.3 Role of ancestors in African religion

An important issue to mention is that many people are under the misconception that African religion is devoted to the worship of ancestors. This misconception manifests itself to the extent that some are of the opinion that within the African belief system, ancestors are equated to the same level of God.

This misconception can manifest itself in that within the African belief system there is a recognised close connection between the living and the deceased.⁶⁶ Rituals are often performed in the name of the deceased relative so that guidance may be sought from them. As mentioned previously, people in the African belief system are of the opinion that they are too ‘small’ to speak to God directly and they therefore need an intermediary to perform this task.⁶⁷ Ancestral spirits performs this task as they have a closer connection to God. In this regard it is important to mention that nothing stops people from communicating with God directly,⁶⁸ it is only that it would be more effective if one approaches him by people who are “...lower than he is but higher than the ordinary person.”⁶⁹

⁶⁵ Nyirongo *ibid*

⁶⁶ Idowu *op cit* 186

⁶⁷ Mbiti *op cit* 68

⁶⁸ Mbiti *ibid*

⁶⁹ Mbiti *ibid*

The above forms a brief description of the role that ancestors play within the African belief system. A further in depth study of their functions will be discussed in the following paragraph.

Having established that the African belief system is functionary but not dependent on the ancestral custom we further delve into the different names given to these role-players among the Southern-Bantu clans of South Africa.

The notion of the ancestral belief system, according to Hammond-Tooke, manifests itself in the Southern-Bantu religion and they had developed various names for these spirits.⁷⁰

The Zulu refer to them as *amadlozi* or *amathongo*; South Nguni, *amathango* or *iminyanya*; Tsonga, *swikwembu*; Sotho, *badimo*; and Venda, *midzimu*.⁷¹

Interestingly the name *modimo* had been attributed to the god of lightning among the Sotho group.⁷² The phrase *dimo* is found in the word *badimo*⁷³ and the word *modimo*,⁷⁴ refers to the word sky. This slight disparity in wording, according to me illustrates the close relation between God as the Supreme Being and the ancestral spirits who serve Him. God in this instance is given a similar name to that of the ancestors and they each share the common letters *dimo*.

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The study goes further to say that ‘God loves the ancestors. They are the angels of god. The whites don’t know what the ancestors mean. African religion, however, is a perfectly legitimate form of expression.’⁷⁵

If this view is followed then one acknowledges that the ancestors are closely linked to God and accordingly to the above are God’s angels. This concept is clearly manifested in the notion that God is not concerned with the trifles of everyday life. God would delegate these tasks to the ancestors and they are in turn subject to the will of God. The ancestors in this regard therefore are very willing to see that their dependants conduct themselves in a manner becoming of them. The ancestral spirits therefore make it their duty to ensure

⁷⁰ Hammond-Tooke *op cit* 150-151

⁷¹ Hammond-Tooke *ibid*

⁷² Hammond-Tooke *ibid*

⁷³ refers to the name for the ancestors among the Sotho group

⁷⁴ refers to the god of lightning among the Sotho group

⁷⁵ African Studies *op cit* 118

that their dependants do not step out of line as they (ancestral spirits) are answerable to God.⁷⁶

3.3.1 Determination of who becomes an ancestral spirit

Firstly the notion of ancestor custom is premised on the belief that death is only the separation of the body and the soul.⁷⁷ The soul remains roaming on earth until the proper burial rites are performed. This state of transition in Xhosa is called *esithubeni*.⁷⁸ The duration of the period of *esithubeni* is dependent upon the status of the deceased during his lifetime.⁷⁹ The burial ceremony is conducted under the supervision of the eldest male relative of the deceased and he serves as the officiator.⁸⁰ An ox is sacrificed in the name of the deceased and the ceremony of *ukubuyisa uTata*⁸¹ is performed.⁸² The family members of the deceased may request that the ancestral spirits receive the spirit of the departed.⁸³ After the entire ceremony had been completed and the male officiator has requested the ancestral spirits to bless them, the ancestral spirit then attains the status of ancestral being and now punishes bad deeds and rewards the good.⁸⁴

Not all deceased persons may attain the status of an ancestral spirit. ‘The African belief is that generally only good people may become ancestral spirits after they have received the “well done” judgement of Deity or of the “court of ancestors.”’⁸⁵

‘When things of life are realised people say, “The ancestors are with us” (*Abaphansi banathi*). When misfortunes happen they say, “The ancestors are facing away from us” (*Abaphansi basifulathele*).’⁸⁶

⁷⁶ Broster *op cit* 17

⁷⁷ Nyirongo *op cit* 80

⁷⁸ Broster *op cit* 20

⁷⁹ Broster *ibid*

⁸⁰ Hammond-Tooke *op cit* 153

⁸¹ ‘bringing home the father’

⁸² Broster *op cit* 20

⁸³ Broster *ibid*

⁸⁴ Broster *ibid*

⁸⁵ Idowu *op cit* 187

⁸⁶ Ngubane, H ‘Body and mind in Zulu medicine’ 51

Once these ancestors have attained the status of ancestral beings they may now communicate with the living. Nyirongo lists a range of possible forms in which the ancestral spirits of the departed may communicate. They provide a concise understanding of the communication tools employed by these spirits and are listed as follows:

(a) Prayers – Africans believe that their prayers reach the ancestors and attribute this to what he/she in fact had received thereafter. For example he/she may have had a good harvests, he/she may have been given children, protection from calamities and so forth.⁸⁷

(b) Dreams – This form of communication is the most common among African peoples. It is this form of communication that forms the basis of this mini-thesis as ancestors communicate with prospective healers in dreams. This aspect will be discussed in greater detail in the chapter to follow. However, as Nyirongo puts it, it is during this stage that the ancestors reveal almost all to their relatives and others.⁸⁸ It is during this stage that the ancestral spirits send messages of warnings, blessings or the causes of misfortune.⁸⁹

(c) Misfortunes and blessings – This aspect interrelates with the above. It is believed that when the ancestors are angry they send signals of misfortune⁹⁰ and when they are pleased with the living they send their blessings.⁹¹ These aspects may take any form ranging from calamities in the working environment up to glad tidings such as the birth of a child.

(d) During significant social events – Ancestors communicate with the living during these events. Their tidings are even reflected in the nature of the event such as the birth of a child in which it is believed that the ancestors have given their blessing of a marriage.⁹²

(e) The appearances of snakes and other animals – An interesting example, which illustrates this point quite well, is that among the Nguni group; they believe that an ancestor is present when a snake appears.⁹³

The above list illustrates the way in which it is believed that an ancestral spirit may communicate with the living. It is however important to remember that this is not a closed list and ancestors may communicate with their relatives in other manners.

⁸⁷ Nyirongo *op cit* 82

⁸⁸ Nyirongo *ibid*

⁸⁹ Nyirongo *ibid*

⁹⁰ illustrating their anger

⁹¹ Nyirongo *loc cit*

⁹² Nyirongo *op cit* 83

⁹³ Nyirongo *ibid*

The role of the diviner features prominently in relation to these kinds of spirits as diviners are consulted to find out what the desire of these spirits are.⁹⁴ In this regard it is important to discuss the role of traditional healers in the African belief system.

3.4 Overview of traditional healers

“Magic by definition, is an attempt on the part of man to tap and control the supernatural resources of the universe for his own benefit.”⁹⁵

This attempts to describe the way in which humans utilise the resources of something beyond their understanding in order to achieve their desired results, whether good or bad. In this regard they look to outside sources such as diviners, an example of a traditional leader to further their goals on earth. However, magic by its western definition implies something that has no scientific basis and is thus dismissed as superstition. The basis for this argument finds its application in the idea that there is only one way to understand the workings of the universe and that African beliefs’ do not form part of that ideology.⁹⁶

Africans also believe in disease as westerners do; they merely seek the assistance of healers to combat this threat of disease.⁹⁷ In this regard they believe that disease is attributed to one source and that the source is the ‘wickedness’ of a human being.⁹⁸ And thus the germ theory does not feature in this belief system.⁹⁹

However in order to understand the workings of the traditional African belief system one has to dismiss all prejudices and embrace the fact that African beliefs and more specifically, traditional healers premised on this notion of ‘magic’. Magic features prominently in this belief system and forms the basis of understanding this somewhat complex system. ‘...[M]agic is always present in every ritual, in the fact that certain

⁹⁴ Mbiti *op cit* 79

⁹⁵ Idowu *op cit* 190

⁹⁶ Holland, H ‘African magic – traditional ideas that heal a continent’ 4

⁹⁷ Holland *ibid* 6

⁹⁸ Holland *ibid* 6

⁹⁹ Gumede, MV ‘Traditional Healers: A medical practitioners perspective’ 38

things must be done according to definite prescriptions or certain words said respectively and in a particular order.¹⁰⁰ Acknowledging this fact would lead us closer to understanding and accepting what forms the basis of this system.

Southern Africa has a variety of healers - the traditional birth attendant, the herbalist, the faith healer or prophet and others.¹⁰¹

There are generally different names attributed to different healers much like those names attributed to God in the African belief system.¹⁰² These names have their origin in the language spoken by each tribal community. An example of such is that amongst the Xhosa grouping they refer to singular diviner as *igqirha* and in plural form as *amagqirha*.¹⁰³ The name attributed to a diviner amongst the Zulu, *isangoma* and among the Sotho, *ngaka*.¹⁰⁴ The name attributed to the herbalist amongst the Zulu and Tsonga, *inyanga*; Xhosa, *ixhwele*; and Sotho, *ngaka*.¹⁰⁵ Although these healers are to perform certain functions in the offices, which they occupy, their roles often overlap¹⁰⁶ as far as service delivery is concerned. The *isangoma* perform the function of divination or so-called diagnostics whereas the role of the herbalist is more therapeutic in nature.¹⁰⁷ However it may be that the diviner performs the function of herbalist and diviner interchangeably.¹⁰⁸

An important aspect is the role and function of traditional healers. Holland describes this as a three-fold function. She asserts that traditional healers¹⁰⁹ perform the function of keeping in touch with the ancestors, ascertaining the cause of misfortune and prescribing remedies, exposing evil-doers and identifying witches, providing persons with charms

¹⁰⁰ Idowu *op cit* 196

¹⁰¹ Campbell, SS Called to heal-traditional healing meets modern medicine in Southern Africa today 1

¹⁰² as discussed under the role of ancestors in the African belief system

¹⁰³ Hammond-Tooke *op cit* 186

¹⁰⁴ Hammond-Tooke *ibid*

¹⁰⁵ Hammond-Tooke *op cit* 187

¹⁰⁶ Gumede *op cit* 51

¹⁰⁷ Gumede *ibid*

¹⁰⁸ Bryant, AT Zulu medicine and medicine men 13

¹⁰⁹ including herbalists

and medicines with mystical powers to ward off evil, and, through the study of plants, they administer herbal extracts in the treatment of disease.¹¹⁰

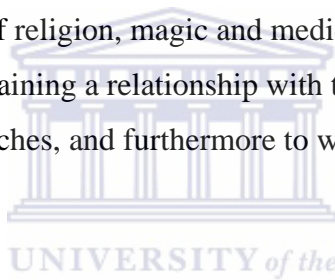
A person would initially consult a diviner to establish the cause of a certain ailment and thereafter if necessary consult with a herbalist to seek the appropriate herbal remedy.¹¹¹

The diviner often performs the function of herbalist and practices divination interchangeably.¹¹²

3.4.1 Diviners

This type of healer forms a part of the broader spectrum of traditional healers. The Nguni believe that these healers obtain a 'calling' from their ancestors to become diviners.¹¹³

Broster reinforces the three-fold function mentioned by Holland in that she asserts that a diviner performs the function of religion, magic and medicine.¹¹⁴ To reiterate these functions they are that of maintaining a relationship with the ancestors, to expose evildoers and 'smell'¹¹⁵ out witches, and furthermore to ward off evil by providing patients with charms.¹¹⁶



The Nguni believe that the manifestation of becoming a healer presents itself in the form of certain symptoms thus indicating a state of *thwasa*.¹¹⁷ 'Ukuthwasa is an event during which candidates break away from their previous lives, and become new beings that are recognised as inhabiting (or having privileged access to) the divining world.'¹¹⁸

During this state of *thwasa* the individual experiences a range of symptoms which include that of having stomach-aches, nervousness, and pain in the back, shoulder and

¹¹⁰ Holland *op cit* 8

¹¹¹ Holland *ibid*

¹¹² Holland *ibid*

¹¹³ Hammond-Tooke *loc cit*

¹¹⁴ Broster *op cit* 15

¹¹⁵ Referring to the 'smelling out' of witches which gives rise to term 'witchdoctors'

¹¹⁶ Broster *loc cit*

¹¹⁷ Hammond-Tooke *loc cit*

¹¹⁸ Chang, Y Zulu divining rituals and the politics of embodiment 41

neck.¹¹⁹ Furthermore, among the Mpondo, individuals often experience dreams and see their ancestors appearing before them in the form of an animal.¹²⁰

Ukuthwasa literally means ‘a coming out afresh after a temporary absence.’¹²¹ The sickness that is experienced after *ukuthwasa* is referred to as *inkathazo*, which literally means ‘trouble.’¹²²

Once this is experienced the individual is then placed under the supervision of an *iqgirha* so as to undergo the necessary training.¹²³

It must be emphasised that the training process of the student has three main functions. These functions include that of being in good mental and physical shape¹²⁴- it is during this stage that the student betters his or her understanding of the dreams that he or she experiences and in so doing relays them to his or her teacher.¹²⁵ This aspect is important as one day he or she will perform the function of interpreting dreams.¹²⁶

Secondly, the student has to perform the daily rituals, prayers and dances.¹²⁷

Finally, the student during his or her training should be introduced to the esoteric knowledge of his or her tutor.¹²⁸

The training involves a great deal of commitment and patience as this period may take from up to one to ten years to complete.¹²⁹ During the period of training students are not allowed to see their spouses or children and are to abstain from sexual contact.¹³⁰

There are different ceremonies marking the beginning of life as a diviner but will however not be referred to here.

¹¹⁹ Hammond-Tooke *loc cit*

¹²⁰ Hammond-Tooke *loc cit*

¹²¹ Broster *op cit* 22

¹²² Broster *ibid*

¹²³ Broster *op cit* 23

¹²⁴ Broster *ibid*

¹²⁵ Broster *ibid*

¹²⁶ Broster *ibid*

¹²⁷ Broster *ibid*

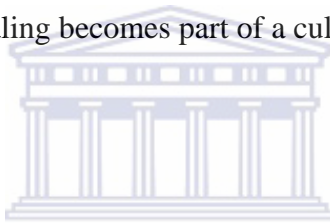
¹²⁸ Broster *ibid*

¹²⁹ Campbell *op cit* 48

¹³⁰ Campbell *ibid*

3.4.2 Herbalists

Herbalists generally gain the knowledge of herbal treatment and remedies from working in collaboration with diviners and/or other herbalists.¹³¹ Herbalists are able to diagnose diseases and offer herbal remedies to patients who consult with them but often lack the ‘psychic or spiritual ability that fires the possessed healer.’¹³² One may say that all people are herbalists in their own light as they administer and believe in homemade remedies to cure certain ailments. However the herbalist sets themselves apart from normal everyday curative remedial practises as they are considered to be masters of the practice.¹³³ Herbalists often have an in depth knowledge of plants, herbs and other substances.¹³⁴ Apart from being trained by their teachers, herbal knowledge is also obtained from experimenting with herbs and plants throughout their lifetimes to obtain a cure for certain ailments.¹³⁵ This knowledge is then passed down from generation to generation and not only implies that traditional healing becomes part of a cultural heritage; it is furthermore empirical in nature.¹³⁶



3.5 Conclusion

The methods employed by the diviner and the herbalist is different in nature as the diviner seeks to establish why something has occurred. The herbalist on the other hand, deals strictly with curative methods of healing by using herbal remedies to assist the ill. ‘They have an array of biomedical remedies at their disposal, ranging from fasting and dieting to herbal therapies...’¹³⁷

The role of the herbalists is equally important to that of the diviner. The herbalists’ curative remedies are more readily being recognised and tested as valid treatment for certain ailments. This is so to the extent that the WHO has encouraged countries to adopt traditional healing methods as a source of their medical procurement.

However prior to the full legal recognition of traditional healers in South Africa, a rigid history of non-recognition existed. These negativities relating to traditional healers have

¹³¹ Campbell *op cit* 1

¹³² Campbell *ibid*

¹³³ Hammond-Tooke *loc cit*

¹³⁴ Hammond-Tooke *loc cit*

¹³⁵ Holland *op cit* 13

¹³⁶ Holland *ibid*

¹³⁷ De Smet, PAGM (1999) Herbs, health, healers – Africa as ethnopharmacological treasury 40

manifested itself under certain pieces of legislation in which most instances were an outright ban of traditional healing practises.

The fourth chapter of this mini-thesis focuses on an in depth critical discussion of legislation dating from 1891 up to and including the present Traditional Health Practitioners Act 35 of 2004.

In so doing I will assert whether the new Act really is a way forward for ‘traditional health practitioners.’



CHAPTER 4 - LEGISLATION REGULATING THE PRACTICE OF HEALERS

DATING FROM 1891 TO 2004

4.1 Introduction

‘Colonialism claimed to bring civilization to a continent where it saw life - to borrow a phrase from a context not entirely unrelated - as “nasty, brutish and short”. Civilization here meant the rule of law’¹³⁸

Colonialism was perpetuated through civil law promulgated under that government to control citizens within the state. According to Mamdani ‘Colonial pluralism was basically dual: on one side was a patchwork of customs and practices considered customary, their single shared feature being some association with the colonised; on the other side was the modern, the imported law of the coloniser.’¹³⁹

4.2 Legislation promulgated under colonial rule

Since 1910, only certain groups of traditional healers were recognised for limited purposes. These healers were referred to as healing doctors, Zulu medicine men alias *izinyanga zokwelapha*, and herbalists, *izinyanga zamakhambi*.¹⁴⁰

Herbalists were allowed to practice for gain. However they were limited or restricted to plying their trade ‘among their own people.’¹⁴¹ The rights of healers were embodied in many pieces of legislation promulgated under colonial rule. These finally merged to formulate one piece of legislation governing the practice, the Natal Native Code.¹⁴² It was applicable only to the region of KwaZulu-Natal.

It was in this piece of legislation that the colonial government had expressly stated that only medicine men and herbalists could practice for gain.¹⁴³

¹³⁸ Mamdani, M Citizen and subject : Contemporary Africa and the legacy of colonialism 109

¹³⁹ Mamdani *op cit* 111

¹⁴⁰ Gumedede *op cit* 91

¹⁴¹ Gumedede *ibid*

¹⁴² Gumedede *ibid*

¹⁴³ Gumedede *ibid*

These restrictions had negative implications for other healers such as diviners, rainmakers and sky herds, to name a few, as they were prohibited from practicing as healers all together.¹⁴⁴ This restriction could be found in Section 268 of Law 19 of 1891.¹⁴⁵

The restrictions placed on diviners were severe and the government was adamant that no diviner could practice for gain. This was illustrated in an appeal case in which a person had been practising as a diviner even though he was prohibited from doing so. He had accepted 2 pounds from a patient for the medical services he had rendered. The matter then came before the Magistrate's court where the Magistrate convicted him of being in contravention of section 268 of Law 19 of 1891. On appeal the decision of the Magistrate was upheld and the person was ordered to repay the money that he owed coupled with the penalty of paying a fine.¹⁴⁶

Other than the legal prohibitions enforced by section 268, section 129 reads that any 'native who practices for gain as a diviner (known to natives as *inyanga youkubhula*, *insanusi* or *isangoma*) or as a rain doctor or lightning doctor or professes a knowledge of witchcraft or the use of spells, charms or advises any person to bewitch or injure persons or property or supplies any person with the pretended means of witchcraft shall be guilty of an offence.'¹⁴⁷

In light of the above restrictions it is evident that the colonial government aimed to curtail the practice of healing in certain instances, as it would result in an increase in the practice of witchcraft. This is so as some *sangomas* rely on divination and *muthi* (sometimes involving the murder of people in order to obtain body parts for their remedies) to be administered in order for their remedies to take effect. In Africa the practice and belief in witchcraft is rife and to the traditional African the belief in witchcraft will always be part

¹⁴⁴ Guemde *op cit* 92

¹⁴⁵ Guemde *ibid*

¹⁴⁶ Guemde *ibid*

¹⁴⁷ Guemde *ibid*

and parcel of the religion.¹⁴⁸ The government could therefore not endorse a practice, which could lead to acts against public policy.

The practise of witchcraft was further outlawed when the government enacted the Witchcraft Suppression Act of 1957 and its amendments. This Act will be discussed under 4.4.

The Medical community were outraged at the government's tolerance of herbalists. They then merged to form the South African Medical Association in 1926 and this organisation 'began to lobby the government to end government licensing of African herbalists.'¹⁴⁹ The formulation of this association led to the enactment of The Medical, Dental and Pharmacy Act of 1928.¹⁵⁰

4.3 The Medical Dental and Pharmacy Act 13 of 1928

This Act perpetuated the dismissal of traditional health care and reinforced that of biomedicine, an act that would have grave consequences for traditional healing up to the present day.¹⁵¹

'The Act intended to decrease the number of *izinyanga* by revoking licenses that had been renewed within three months and by forcing new applicants to apply through the Minister of Public Health, who was aligned with the bio-medical community, and therefore unsympathetic to African healers.'¹⁵²

The Act reinforced the government's stance of non-tolerance and ultimately led to the decline in the number of licensed healers.¹⁵³

¹⁴⁸ Parrinder, G 'Witchcraft : European and African' 128

¹⁴⁹ Devenish, A Negotiating healing: the professionalisation of traditional healers in Kwazulu-Natal between 1985 and 2003 45

¹⁵⁰ Devenish *ibid*

¹⁵¹ Devenish *ibid* (as referred to in Nesvag, S D'Urbanised tradition: The restructuring and development of the Muthi Trade in Durban (1999) 79)

¹⁵² Devenish *ibid* (as referred in Flint, K Negotiating a hybrid medical culture : African healers in South-Eastern Africa from 1820's to 1940's (2001) 216)

¹⁵³ Devenish *loc cit* 48 (as referred in Flint, K Negotiating a hybrid medical culture : African healers in South-Eastern Africa from 1820's to 1940's (2001) 216)

4.4 Witchcraft Suppression Act 3 of 1957

The purpose of this Act was to provide for the suppression of witchcraft and similar practices.

Section 1 of the Act stipulates that any person who professes to have a cure for any disease caused by supernatural means, employs or solicits a witchdoctor, witch finder, or any other person to name or indicate a wizard, profess a knowledge of witchcraft, or the use of charms and advises on how people may bewitch were liable to pay a fine or be imprisoned depending on the degree of the offence. Imprisonment ranged from a period not exceeding two to twenty years and fines of up to five hundred rand.¹⁵⁴

One cannot mention the prohibition on the practice of witchcraft without mentioning the Ralushai Commission of 1996. This body was established when the government of the Northern Province (now Limpopo) instituted the Commission to investigate the spate of 'witch-killings.'¹⁵⁵

The Commission's recommendations were the following: that a code of conduct for traditional healers be instituted, to liberate people through education from belief in witchcraft, to institute different penalties for witches and those who sniff them out and to criminalize the forced collection of money required to pay *izangoma*.¹⁵⁶

Interestingly, in 1998 the Institute for Multi-Party Democracy (IMPD) reviewed the Witchcraft Suppression Act of 1957 and suggested that it be replaced with new legislation.¹⁵⁷ Another recommendation in this regard was that special courts be created to deal with those who practice witchcraft and setting fines for those who make witchcraft accusations and those who practice witchcraft.¹⁵⁸

¹⁵⁴ Section 1(i) – (iv)

¹⁵⁵ Xaba, T The transformation of Indigenous medical practice in South Africa 34

¹⁵⁶ Xaba *ibid*

¹⁵⁷ Xaba *op cit* 35

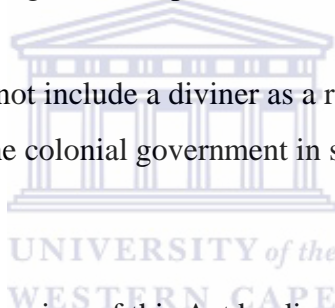
¹⁵⁸ Xaba *ibid*

In 1999 the Commission on Gender Equality also hosted a conference to make recommendations on the Witchcraft Suppression Act of 1957.¹⁵⁹ They proposed that the ‘smelling’ out of witches (who are normally females) by youth (who are normally male) is a form of gender violence.¹⁶⁰ They further recommended that the government change its ideology of traditional healers.¹⁶¹

4.5 KwaZulu Act on the Code of Zulu Law 6 of 1981

The 1981 Code was revised and re-enacted in 1985 the KwaZulu Act on the Code of Zulu law 16 of 1985. The purpose of the Act would seem an attempt by the legislature to regulate the practise of traditional healers and in so doing recognise them for certain limited purposes. However, an opposing view would be that it is merely an attempt to control the practise and grant it legislative supervision.

Be that as it may, the Act does not include a diviner as a recognised healer. This merely reiterated the stance taken by the colonial government in so far as they have restricted the practice of these healers.¹⁶²



It would seem fit that a brief overview of this Act be discussed.

Section 1 of the Act mentions the traditional names given to medicine men, herbalists and midwives. It furthermore stipulates that these healers may practise for gain if licensed to do so. A person may not practice as one of the defined healers unless the authority of the Minister of Health and Welfare had been obtained authorising such person to practice. However, this section is only applicable where any other legislation allows a license for a traditional healer to practise.¹⁶³ If a license were issued in terms of the above then that license would only be valid for one year from the date of issue. However, if the application to renew is brought within one month after the date of expiry and upon

¹⁵⁹ Xaba *ibid*

¹⁶⁰ Xaba *ibid*

¹⁶¹ Xaba *ibid*

¹⁶² Refer to above discussion on Natal Native Code

¹⁶³ Subsection 2 of the Kwazulu At 6 of 1981

payment of the prescribed fee, the Commissioner or Magistrate of the district within which the license holder is in practise may renew it for a further period of one year.

Even in the event that other legislation (such as the provisions contained in the Homeopaths, Naturopaths, Osteopaths and Herbalists Act 52 of 1974, The Medical, Dental and Supplementary Health Services Profession Act 1974 and the Nursing Act 50 of 1978) restricts the practice of traditional healers, it shall not be construed as derogating from the right which a medicine-man, herbalist or midwife have by virtue of the license issued under subsection 2.¹⁶⁴

4.6 Traditional Health Practitioners Act 35 of 2004

Traditional healers have had a rigid existence dating from the 1891 Code, restricting their practice solely to ‘their own people’ to the ‘KwaZulu Act’ further reiterating the prohibition on certain healers from practicing for gain.

The Traditional Health Practitioners Act, hereafter referred to as the THP Act, should be seen as a way forward for persons who wish to practice as healers in South Africa. This Act has revolutionised the legal position of all healers, including diviners who were in the past restricted from practicing altogether.

The Act furthermore provides a framework for prospective healers to follow in order to be dully licensed and practice as such.

All these aspects will be highlighted in this chapter by making reference to the various provisions in the THP Act.

As a general overview the sections that will be dealt with are the preamble, stating the functions of the Act; the definition section in order to clarify the various bodies dealing with traditional healing; and the establishment of the Interim Traditional Health Practitioners Council. This discussion will be limited to the objects and functions of the council as these are of direct importance as far as traditional health services are concerned. The composition of the Council, vacation of office; filling of vacancies as

¹⁶⁴ Subsection 4 of the Kwazulu Act 6 of 1981

well as disqualification as a member of the Council will also be discussed. Furthermore reference will be made to the requirements necessary for registration as a traditional health practitioner and student and the removal from a name on the register. Also, the appointment and functions of the registrar, inquiries into charges of misconduct as well the procedure at such inquiries. The conditions relating to continuing education of traditional health practitioners is also an important factor as these are in line with the international standard of health set by the World Health Organisation (to be discussed in detail in the chapter 5). Finally supplementary provisions will also be referred to as these set out the limitations the Act places on practising traditional health practitioners and students. The chairperson; the vice-chairperson; meetings and quorums will therefore not be referred to, as this is not the main focus of this mini-thesis.

Even though the Act has not come into commencement yet, there is however certain sections in the THP Act which have. This will be indicated in this chapter.

A person who practices in traditional health practice shall not be guilty of any offences/penalties if such persons are not registered during the period of one year following the commencement of the THP Act.¹⁶⁵

Section 2 sets out the purposes of the THP Act and provides that one of the objectives is to establish a Traditional Health Practitioners Council of South Africa. Furthermore, another key function is to provide for the regulatory framework to ensure the efficacy, safety and quality of traditional health care services.

Further, to provide for the management and control over the registration, training and conduct of practitioners, students and further specified categories of the traditional health profession; and to provide for matters in connection therewith.

The registration, training and conduct of traditional health practitioners, students and other categories of persons will be discussed in great detail under this heading.

¹⁶⁵ Section 51 of the THP Act

4.6.1 Definition section of the Act

There are various definitions in the THP Act. I will however only be referring to a specified few as these are of relevance for this mini-thesis.

‘Accredited Institution’ – It is an Institution approved by the Council which certifies that a person or body has the required capacity to perform the functions within the sphere of the National Quality Framework contemplated in the South African Qualifications Authority Act 58 of 1995.

‘Council’ – means the Interim Traditional Health Practitioners Council of South Africa established by section 4

‘Diviner’ – means a person who engages in traditional health practice and is registered as a diviner under the Act.

‘Herbalist’ – means a person who engages in traditional health practice and is registered as a herbalist under the Act.

‘Minister’ – means the Minister responsible for the national Department of Health

‘Registrar’ – means the Registrar of the Council appointed in terms of section 18

‘Student’ – means a person training as a traditional health practitioner

‘Traditional birth attendant’ – means a person who engages in traditional health practice and is registered as a traditional birth attendant under this Act

‘Traditional Health Practice’ – means the performance of a function, activity, process or service based on a traditional philosophy that includes the utilisation of traditional medicine or traditional practice an which has as its objects:

- (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

However, it excludes the professional activities of a person practising any of the professions contemplated in other pieces of legislation.

‘Traditional Health Practitioner’ – Means a person registered under this Act in one or more of the categories of traditional health practice

‘Traditional philosophy’ – Means indigenous African techniques, principles, theories, ideologies, beliefs, opinions and customs and uses of traditional medicines communicated from ancestors to descendants or from generations to generations, with or without written documentation, whether supported by science or not, and which are generally used in traditional health practice.

‘Traditional tutor’ – Means a person registered under any of the prescribed categories of traditional health practice that has been accredited by the Council to teach traditional health practice or any aspect thereof.

‘Unprofessional conduct’ – means any act or omission which is improper or disgraceful or dishonourable or unworthy of the traditional health profession.

4.6.2 Application of Traditional Health Practitioners Act

In terms of section 3, the Act applies to (a) traditional health practice in the Republic; and (b) traditional health practitioners and students engaged in or learning traditional health practice in the Republic.

4.6.3.1 the establishment and governance of Interim Traditional Health Practitioners Council of South Africa

The Registrar¹⁶⁶ must convene the first meeting of the Council within 3 months of the commencement of the entire THP Act.¹⁶⁷

4.6.3.2 Objects of Council

The objects of the Council are many-fold. Apart from the obvious objective being that of promoting public health awareness¹⁶⁸ in general. The Council further has to ensure that

¹⁶⁶ Means the registrar of the council appointed in terms of S 18

¹⁶⁷ S 4

¹⁶⁸ S 5(a)

the quality of health services, administered by traditional health practitioners is complied with.¹⁶⁹

Furthermore, the Council promotes and protects the interests of those persons in South Africa who use or are in some way affected by the traditional health practice.¹⁷⁰

This aspect relates to the possible offences that may be committed by traditional healers and penalties that may be issued when practitioners do not exercise their duties efficiently and safely.

The Act further requires that the Council promote and maintain appropriate ethical and professional standards required of the traditional health practice.¹⁷¹

The objects clause of the THP Act further requires the Council to encourage research, education and training in the sphere of traditional health practice,¹⁷² to promote contact between the various fields of training within traditional health practice and to set standards for such training.¹⁷³ The Council has to compile and maintain a professional code of conduct for traditional health practice.¹⁷⁴ Furthermore, the Council has to ensure that traditional health practice complies with universally accepted health care norms and values.¹⁷⁵ This aspect would entail that the Council ensure that traditional health practice within the Republic conform to international health standards, which are set by the World Health Organisation (WHO). It is submitted that the latter body has expressed that countries should promote traditional health practices by encouraging traditional healers' involvement as a primary health care service providers and should promote traditional health care remedies by encouraging research and training in this field.¹⁷⁶

¹⁶⁹ S 5(b)

¹⁷⁰ S 5(c)

¹⁷¹ S 5(d)

¹⁷² S 5(e)

¹⁷³ S 5(f)

¹⁷⁴ S 5(g)

¹⁷⁵ S 5(h)

¹⁷⁶ WHO Division of strengthening of health services and traditional medical programme 1995 'Traditional practitioners as primary health care workers' 5

The WHO's recommendations and programmes of action will be discussed in detail in chapter five.

4.6.3.3 Functions of the Council¹⁷⁷

The THP Act sets out a two-fold functionary power of the Council. It mentions that the council has certain functions that it 'may' exercise and functions that it 'must' exercise.

The THP Act states that the Council 'must' promote interaction between traditional health practitioners and other health care professionals,¹⁷⁸ implement health policies which are determined by the Minister regarding traditional health practice,¹⁷⁹ advise the Minister on any matter falling within the scope of this Act,¹⁸⁰ determine policy in consultation with the Minister,¹⁸¹ register persons who engage in traditional health practice,¹⁸² remove a name from the register or 'must' upon payment of the prescribed fee restore a name to the register.¹⁸³ In situations where as may be prescribed, suspend or cancel any traditional health practitioners registration and more importantly publish information regarding the objects and functions of the council and its operations and the rights that any member of the public has under the Act.¹⁸⁴ In this regard the registrar must upon instruction of the council, remove a persons name from the register if the person has died,¹⁸⁵ who is no longer in South Africa,¹⁸⁶ who has been absent from the Republic for a continuous period of more than three years¹⁸⁷ or whose name has been removed from the register because they had been found guilty of improper or disgraceful conduct in terms of the Act,¹⁸⁸ merely to name a few instances.

¹⁷⁷ The date of commencement of section 7 was the 13 January 2006

¹⁷⁸ S 6(2)(a)

¹⁷⁹ S 6(2)(b)

¹⁸⁰ S 6(2)(c)

¹⁸¹ S 6(2)(f)

¹⁸² S 6(2)(j)

¹⁸³ S 6(2)(k)

¹⁸⁴ S 6(2)(n)

¹⁸⁵ S 23(1)(a)

¹⁸⁶ S 23(1)(b)

¹⁸⁷ S 23(1)(c)

¹⁸⁸ S 23(1)(g)

4.6.3.4 Composition of the Council

The council must consist of a maximum of 22 members and must include a traditional health practitioner, vice-chairperson of the council, 9 traditional health practitioners (one from each province practicing for no less than 5 years), employee in the service of the department of health, one appointed on their account of knowledge of the law, a medical practitioner who is a member of the Health Professions Council of South Africa, a pharmacist who is a member of the South African Pharmacy Council, 3 must be community representatives and lastly 1 from each category of traditional health practitioners as defined in the THP Act.¹⁸⁹

The date of commencement for section 7 is the 13 January 2006.

4.6.3.5 Vacation of office and filling of vacancies

A member of the council must vacate his/her office if he/she ceases to be a South African citizen, he/she is diagnosed as having a mental illness or becomes a mental health care user as defined in the Mental Health Care Act 2002, he/she is convicted of an offence and sentenced to imprisonment without the option of a fine (whether suspended sentence or not), he/she is disqualified in terms of any law from practising as a traditional health practitioner, he/she no longer holds the necessary qualification for designation or appointment, he/she tenders resignation in writing, to the Minister, he/she is absent from the council for two consecutive meetings without leave of the council, his/her estate is sequestrated, he/she becomes impaired to the extent that they are unable to carry out their duties as a member of the council, the Minister in public interest or on grounds of misconduct, incapacity or incompetence, terminates his or her membership, period for which the member was appointed has expired and his/her appointment is not renewed by the Minister.¹⁹⁰

If in the event that a member of the council dies or vacates his/her office before his/her period of appointment has terminated, the Minister has a duty to appoint another person

¹⁸⁹ S 7(a) – (i)

¹⁹⁰ S 8(1)(a)-(k)

to fill that vacancy for the remainder of the period for which the other person was appointed.¹⁹¹

4.6.3.6 Disqualification as member of council

A person may not be appointed as a member of the council if he/she is not a South African citizen,¹⁹² has been convicted of an offence in respect of which such person was sentenced to imprisonment without the option of a fine,¹⁹³ such a person has been found guilty of unprofessional conduct under this Act,¹⁹⁴ has been diagnosed as having a mental illness or is a mental health care user as defined in section 1 of the Mental Health Care Act 2002,¹⁹⁵ is an un-rehabilitated insolvent or has entered into a composition with his/her creditors,¹⁹⁶ is disqualified in terms of any law from practising as a traditional health practitioner,¹⁹⁷ or at time of his/her appointment was during the preceding 12 months a member of the National Assembly, any legislative body, National Council of Provinces or any municipal council¹⁹⁸ or an office bearer or employee of any party, organisation or body of a political nature.¹⁹⁹

4.6.3.7 Remuneration of members of council and committees

Members of the council and members of the committees must be paid remuneration and allowances determined by the Minister, in consultation with the Minister of Finance.²⁰⁰

The date of commencement of this section is the 13 January 2006.

4.6.4 Requirements for the registration as a Traditional Health Practitioner²⁰¹

If a person who wishes to practice as a traditional health practitioner he/she has to comply with the proper registration procedure contemplated in the THP Act.²⁰²

¹⁹¹ S 8(2)

¹⁹² S 8(a)

¹⁹³ S 8(b)

¹⁹⁴ S 8(c)

¹⁹⁵ S 8(d)

¹⁹⁶ S 8(e)

¹⁹⁷ S 8(f)

¹⁹⁸ S 8(g)(i)

¹⁹⁹ S 8(g)(ii)

²⁰⁰ S 15

²⁰¹ Set out in Chapter 21 of THP Act

In order for this to be done the traditional health practitioner or student has to make an application to the registrar.²⁰³

The applications should be accompanied by

- (a) Proof that the applicant is a South African citizen;
- (b) Character references by the applicant should be provided;
- (c) Proof of the applicant's qualifications;
- (d) Prescribed registration fee; and
- (e) Any further information relating to the application that the council may consider necessary

If the registrar is satisfied with the above documentation and the registration fee has been paid, the registrar must issue the registration certificate authorising the applicant to practice as a traditional health practitioner in South Africa.²⁰⁴

If in the event that the registrar is not satisfied with the information and documentation received, the registrar may refuse to issue the certificate. However the registrar in such an instance must then refer the matter to the council for a decision if the applicant so chooses.²⁰⁵

The registrar must only register a traditional health practitioner if the registrar is satisfied that the applicant is suitably qualified to be a traditional health practitioner or if the council is so satisfied.²⁰⁶

If in the event that the council is of the opinion that any entry into the register had been made by an error, through a misrepresentation or in circumstances not authorised by the THP Act then that should be removed from the register and a record of the reason for such removal must be made in the register.²⁰⁷ Furthermore, the person in respect of whom such removal had been made must be notified thereof in a manner contemplated in s 23(2) and the certificate issued in respect of such registration is then deemed to be cancelled as from the date on which notice was given.²⁰⁸

²⁰² S 21(1)

²⁰³ S 21(2)(a)

²⁰⁴ S 21(3)

²⁰⁵ S 21(4)

²⁰⁶ S 21(5)

²⁰⁷ S 21(6)(a)

²⁰⁸ S 21(6)(b) and (c)

The qualifications required of an applicant who wishes to practice is in terms of the Act, the Minister may, on the recommendations of the council, prescribe the minimum qualifications to be obtained by virtue of examinations conducted by an accredited institution, educational authority or other examining authority in the Republic.²⁰⁹

Any qualification contemplated in terms of the above entitles the holder to registration in terms of the THP Act if he/she has ²¹⁰(before, in connection with or after the qualification in question) complied with the prescribed conditions or requirements.

4.6.5 Removal from and restoration of name to register

The registrar performs the function of removing any persons name from the register after instruction from the council.

The categories of persons whose names need to be removed from the register are the following; persons who has died,²¹¹ person who has ceased to be a citizen of South Africa or has permanently left South Africa,²¹² who has been absent from South Africa for a continuous period of more than 3 years,²¹³ who has failed to pay any relevant prescribed fee,²¹⁴ who has failed to notify the registrar of any change in his physical or postal address of his or her practice within 6 months of the change,²¹⁵ who has requested that his or her name be removed from the register in which such a person may be required to lodge with the registrar an affidavit or affirmation to indicate that no disciplinary or criminal proceedings are pending or are likely to be instituted against him or her,²¹⁶ who has been found guilty of improper or disgraceful conduct,²¹⁷ whose name has been removed from any education and training institution register where such a person received the qualification for which he or she was registered,²¹⁸ who has been registered through error or fraud,²¹⁹ who has failed to furnish with the registrar the information

²⁰⁹ S 22(1)

²¹⁰ S 22(2)

²¹¹ S 23(1)(a)

²¹² S 23(1)(b)

²¹³ S 23(1)(c)

²¹⁴ S 23(1)(d)

²¹⁵ S 23(1)(e)

²¹⁶ S 23(1)(f)

²¹⁷ S 23(1)(g)

²¹⁸ S 23(1)(h)

²¹⁹ S 23(1)(i)

required as prescribed by the council,²²⁰ whose registration have been made in error or through fraudulent misrepresentation or concealment of material facts or information or in circumstances not authorised by the THP Act²²¹ or after an assessment made in terms of section 41 was found to be mentally impaired.²²²

The registrar must give notice of the removal of a person's name from the register in terms of subsection (b) to (l) by registered mail addressed to such person at the address of such person as it appears in the register.²²³

If the person is issued with a certificate then that certificate is considered to be cancelled from the date that the notice mentioned above has been given.²²⁴ In addition, a person whose name has been removed from the register must cease to practise as a traditional health practitioner and cannot perform any of the acts that a registered person is entitled to perform until his or her name has been restored in the register.²²⁵

The registrar is entitled to restore the name of a person whose name has been removed from the register if the person applies in the prescribed form for the restoration of his or her name,²²⁶ pays the prescribed fee (if any),²²⁷ complies with the requirements that the council may from time to time determine²²⁸ and is eligible for registration.²²⁹



4.6.6 Appointment and functions of the Registrar

This office is an important feature of the THP Act, as the registrar must, based on his discretion issue the prospective traditional health practitioner a certificate that would enable such person as a practitioner in South Africa.

A registrar may be appointed once such person has concluded a written performance agreement entered into by such person and the Minister.²³⁰

²²⁰ S 23(1)(j)

²²¹ S 23(1)(k)

²²² S 23(1)(l)

²²³ S 23(2)

²²⁴ S 23(3)(a)

²²⁵ S 23(3)(b)

²²⁶ S 23(4)(a)

²²⁷ S 23(4)(b)

²²⁸ S 23(4)(c)

²²⁹ S 23(4)(d)

²³⁰ Chapter 3 S 18(2)

The registrar is the secretary and accounting officer of the council²³¹ and must perform the functions assigned to him or her in terms of the THP Act.²³²

The functions of the registrar are many-fold, however the function of importance for this discussion are the functions of keeping a register of all the names of traditional health practitioners and students.²³³

Upon the instruction of the council the registrar should enter the name, physical address, qualifications, date of initial registration and any other particulars, including the category or speciality²³⁴ of the person registered.²³⁵

In addition to this, the registrar has the delegated task of removing a name from the register²³⁶ and should also update the particulars of persons registered as traditional health practitioners.²³⁷

The Registrar may also, in writing, as he or she determines, delegate or assign any power or duty to any staff member, unless the Minister expressly prohibits that specific delegation or assignment.²³⁸ However if power is so divested then it does mean that the registrar is not accountable for those tasks so performed²³⁹ and does not prohibit the performance of the function involved by the registrar.²⁴⁰

A delegation or assignment of power may be withdrawn, but such withdrawal does not affect any rights that a person may have received as a result of the functions performed before the delegation or assignment was withdrawn.²⁴¹

4.6.7 Laying of complaints

Any person may lay a complaint with the Council with regard to the way in which he/she had been treated by a registered traditional health practitioner or student.²⁴²

²³¹ S 19(1)(a)

²³² S 19(1)(b)

²³³ S 19(c)(i)

²³⁴ Whether the person is registered as a herbalist, diviner or traditional birth attendant

²³⁵ S 19(c)(ii)

²³⁶ S 19(c)(iii)

²³⁷ S 19(1)(c)(iv)

²³⁸ S 19(2)(a)

²³⁹ S 19(2)(b)(i)

²⁴⁰ S 19(2)(b)(ii)

²⁴¹ S 19(2)(c)

²⁴² S 29(1)

4.6.8.1 Inquiries into charges of misconduct

This section, included under section 30(1) of the THP Act serves to protect the interests of the public who utilise traditional health care or are in some way affected by it.

If in the event that there is a complaint, charge or allegation made against a registered traditional health practitioner the council may institute a penalty in terms of section 34. However if the conduct or alleged conduct of the traditional health practitioner is the subject of a criminal case in a court of law, the council may postpone the inquiry until the criminal case has been settled.²⁴³ Moreover, if the council doubts that the inquiry should be held the council may consult with or seek further information from any other person or even the person against whom the allegation, charge or complaint is brought.²⁴⁴

The registrar may institute any investigation into an alleged contravention of, or failure to comply with the Act²⁴⁵, to determine whether a certain provision of the THP Act applies to a particular person,²⁴⁶ registrar may also institute a charge, complaint or allegation of improper or disgraceful conduct by a registered person²⁴⁷ or if any person files a complaint with the registrar (provided that is supported by affidavit setting out the allegations contained in such a complaint), the registrar may institute an investigation into the affairs or conduct of the registered person.²⁴⁸

4.6.8.2 Procedure at inquiry and relevant matters²⁴⁹

In terms of subsection 1, after an inquiry is held by the council, a person who has been found guilty of improper or disgraceful conduct is liable in the following manner:

The person may either receive a caution or a reprimand or both,²⁵⁰ be suspended from practising for a specified period,²⁵¹ have his/her name removed from the register,²⁵² is

²⁴³ S 30(1)

²⁴⁴ S 30(2)

²⁴⁵ S 31(5)(a)

²⁴⁶ S 31(5)(1)

²⁴⁷ S 31(5)(c)

²⁴⁸ S 35(1)(d)

²⁴⁹ S 34

²⁵⁰ S 34(1)(a)

liable to pay a prescribed fine,²⁵³ a penalty of performing compulsory community service prescribed by the council,²⁵⁴ liable to pay the costs of the proceedings²⁵⁵ or restitution which entails giving back any money received by the complainant.²⁵⁶

In relation to the above a registered person who has been found guilty of misconduct would be subject to one or more of the penalties contemplated in the subsections.

If a registered person is suspended or the persons name had been removed from the register, then in terms of section 34 the person is prevented from practising namely, carrying on his business, and his/her registration rights is deemed to be cancelled until such time that the persons suspension period had been fulfilled or the persons name has been restored by the council.²⁵⁷

4.6.9 Conditions relating to continuing education

This is quite an interesting aspect of the THP Act as it not only encourages traditional health practitioners to further their education but also prescribes that the council may prescribe the nature and extent of such training. This is line with the WHO strategy to implore countries to improve education and training in the field of traditional health practice (to be discussed in detail in chapter five).

In terms of the THP Act, the council may from time to time make rules which prescribe the conditions relating to continuing education and training to be undergone by persons registered in terms of the THP Act to retain such registration,²⁵⁸ the nature and extent of continuing education and training to be undergone by persons registered in terms of the THP Act²⁵⁹ and criteria for recognition by the council of continuing education and training courses and of education institutions offering such courses.²⁶⁰

²⁵¹ S 34(1)(b)

²⁵² S 34(1)(c)

²⁵³ S 34(1)(d)

²⁵⁴ S 34(1)(e)

²⁵⁵ S 34(1)(f)

²⁵⁶ S 34(1)(g)

²⁵⁷ S 36

²⁵⁸ S 28(a)

²⁵⁹ S 28(b)

²⁶⁰ S 28(c)

4.6.10 General and supplementary provisions²⁶¹

Fee charged by registered persons²⁶²:

An interesting aspect of the THP Act is that no suggested fee is mentioned. The only requirement is that the registered person rendering the service should inform the person to whom the services are rendered of what the amount charged would be.²⁶³

However, a patient may within 3 months of receiving the account from the traditional health practitioner, apply to the council to make a determination on the amount the person was charged.²⁶⁴

Moreover, the council may determine and publish recommended fee used by the council as a norm for determining the amounts which the patient has enquired about.

A further important aspect of the THP Act is the section relating to offences by traditional health practitioners.

In terms of the offences section, a person who is not registered as a traditional health practitioner or student shall be guilty of an offence if he/she for gain practises as a traditional health practitioner;²⁶⁵ physically examines a person;²⁶⁶ diagnosis, treats or prevents any physical defects;²⁶⁷ advises any person on his/her mental state.²⁶⁸

Interestingly the THP Act states that it is an offence for a person that is not registered as a traditional health practitioner or student to diagnose, treat or offers to treat or prescribe a treatment or cure for HIV/AIDS or any other terminal illness.²⁶⁹

To profess to be able to cure the above-mentioned diseases,²⁷⁰ holds out that any traditional medicine amongst other things, may alleviate, cure or treat terminal illnesses.²⁷¹

²⁶¹ Chapter 5

²⁶² S 42

²⁶³ S 42(1)

²⁶⁴ S 42(3)

²⁶⁵ S 49(1)(a)

²⁶⁶ S 49(1)(b)(i)

²⁶⁷ S 49(1)(b)(ii)

²⁶⁸ S 49(1)(b)(iii)

²⁶⁹ S 49(1)(g)(i)

²⁷⁰ S 49(1)(g)(ii)

²⁷¹ S 49(1)(g)(iii)

If a person were found guilty in respect of the above offences such person would be liable to pay a fine or imprisonment of up to 12 months or both.²⁷²

4.6.11 Conclusion

Traditional healers have been practising the art of healing for centuries. They have been relying on the calling they receive from their ancestors and some have reacted to this by following the path of healing. The necessary rituals have been performed and they received their teachings from existing healers who have become mentors in this age-old tradition. They were then recognised by their ancestors as healers, whether herbalists or diviners and have practised as such for ages. Sadly as with all customs and traditions government intervention is rife. The government of that period enacted various pieces of legislation curtailing this long-standing tradition. They outlawed the practice of certain healers and allowed only some of them to practise with certain limitations. This was an attempt by the government to prevent the practise of witchcraft, which is often associated with the practise of healing. They prohibited diviners from practising for gain as these healers were more closely linked to witchcraft. These healers relied on divination, which meant that they would contact their ancestors to solicit cures for healing or others would use their 'powers' at the instruction of people to wreak havoc in the lives of their enemies. The remedies they prescribed often meant that they would concoct some potion containing human or animal parts in order for it to take the best effect. This meant that some form of harm or death would befall the person who found himself or herself in the position of becoming an ingredient in this concoction.

For this reason the government enacted the Witchcraft Suppression Act thereby completely outlawing any form of witchcraft.

The government also promulgated the South African Medical, Dental and Pharmacy Act of 1928 in response to the outcry received from the western practitioners. They were outraged by the fact that government was issuing licenses to herbalists. This Act was a

²⁷² S 49(4)

key feature for shaping the future of traditional health and the way in which it is viewed by the bio-medical sector. It reinforced the dismissal of traditional healers and the role they can play in national health programmes. This legacy has lasted up to the present day and is one of the obstacles preventing traditional health from being 'bio-medically' recognised. Traditional healer who wished to practice had to go through extensive procedures to obtain their licenses. In order to obtain license one would have to go through the Minister of Public Health who was biased in favour of biomedicine. This hiccup led to the number of licensed traditional healers to decrease. However the consequences of this statute have even more devastating results than in the past. Traditional healers are in great demand especially in light of the HIV/AIDS epidemic.

The 'KwaZulu Act' further prescribed the manner in which certain healers could practise and once again reiterated the stance taken in the Natal Codes in that diviners could not practise for gain.

With the advent of the Traditional Health Practitioners Act this position changed for the benefit of all types of healers concerned. Herbalists and diviners are now allowed to practise for gain. The THP Act introduced the concept of having an Interim Traditional Health Practitioners Council to deal with traditional practise in the Republic and to regulate this practise of healing. Apart from the recognition the Act provides for all healers it further allows a complaints mechanism which may be used by persons who have been affected, either directly or indirectly by traditional health practise and allows these persons to exhaust the remedies in that regard.

The Act also mentions the restrictions placed on traditional healers and students in that it is an offence to purport to have a cure for any terminal illness such as HIV/AIDS. The Act however does not recommend a prescribed fee for healers to charge and also fails to mention miscellaneous matters such as whether healers are allowed to issue medical certificates once they have been registered as traditional health practitioners. The Constitutional Court recently lashed out at government for not allowing public participation when it passed the Traditional Health Practitioners Act. They argued that

technically under the Act *sangomas* have the authority to write sick notes which would then carry the same weight as that of a medical practitioners.²⁷³

Other than that the Act should be seen as a revolution in the practice of healing and stipulates most aspects that need to be dealt with at this level.



²⁷³ Pritchard, C Note from healer not valid time off work 2

CHAPTER 5 - WORLD HEALTH ORGANISATION, SADC PROTOCOL ON HEALTH, THE CULTURE OF HEALING AND THE INCORPORATION OF TRADITIONAL HEALERS IN TO PHC PROGRAMMES

5.1 Introduction

This chapter will focus on the international health body, the World Health Organisation (WHO) and the recommendations that they put forward for training traditional healers in primary health care programmes. These recommendations are extensive and if followed correctly could aid nations to better their traditional healing training mechanisms. An in depth discussion on the training programme will be discussed under this chapter. The stance of the Southern African Development Community (SADC) will be discussed. This body has drafted a Protocol on Health in which they urge nations to promote traditional healing practices. The SADC Declaration on HIV/AIDS will be referred to in chapter 5 as the topic of HIV/AIDS and healers will be dealt with then. On a more local level, how culture, economics and politics have affected the practice of traditional healing will also be discussed. In this regard the recommendations of the Ralushai Commission - a Commission appointed to investigate the spate 'witch-killings', will also be dealt with. This has affected the general attitude towards traditional healing and has made incorporation of healers into primary health care very difficult. Thereafter and in light of the above difficulties recommendations on incorporating traditional healers into primary care programmes will be discussed. Arguments for and against the inclusion of healers will also be mentioned.

5.2 World Health Organisation (WHO)

The World Health Organisation (WHO) is an international body having been established in 1948 and is a branch of the United Nations whose mandate is dealing with health issues in a global perspective.

Representatives of the 193 Member States govern the WHO through a group known as the World Health Assembly (WHA).

The functions of the Assembly include but are not limited to approving WHO programmes of action.

The WHO recognises the role that traditional healers play in communities in sub-Saharan Africa and have estimated that 80% of low to middle-income groups consult traditional healers as a primary health care service.²⁷⁴

The WHO has formulated a number of programmes and drafted many reports all of them urging nations to adopt a primary health care strategy that includes the training and development of traditional health care practices.

It recognises that traditional health practitioners can form a valuable part of a countries Primary Health Care (PHC) function and further that this sustainable resource should be tapped by developing training programmes to incorporate 'healers' as health care providers.²⁷⁵ Contrary opinions however do exist which suggest that healers should not be incorporated into a national roll out of health service providers. These opinions will be alluded to in the final piece of work in this chapter.

5.2.1 Recommendations made by the WHO on improving health standards

As a starting point the WHO acknowledges that traditional healers and biomedical practitioners should collaborate with the goal of promoting better health care services as a whole and has reported that where this was done there was a marked improvement in the standard of health care.²⁷⁶ The organisation emphasises this as an important initial step as collaboration between these parties will not only better health standards in rural areas but will further enable them (traditional healers and bio-medical practitioners) to 'learn from each other'.²⁷⁷

²⁷⁴ UNAIDS 'Ancient remedies new disease – involving traditional healers in increasing access to AIDS care and prevention in East Africa' 7

²⁷⁵ WHO 'Traditional healers as primary health care workers' World health organization division of strengthening of health services and the traditional medicine programme 1995 3

²⁷⁶ WHO 'Traditional healers as primary health care workers' *ibid*

²⁷⁷ WHO 'Traditional healers as primary health care workers' *ibid*

The WHO further recommends that an effective plan for training should be instituted by collecting relevant information from health organizations, indigenous groups, communities and traditional health practitioners.²⁷⁸

It further urges Government Ministries of Health, NGO's and other health agencies to develop strategies on how traditional health practitioners should be trained. In the event that there are policies which already exist in that jurisdiction then those should be reviewed to determine any limitations for training traditional health practitioners.²⁷⁹

Community members and traditional health practitioners should become involved with the implementation of the programme as they are the persons to best identify the problems with implementation, evaluation and more over healers should become involved as their training should be based on what they want to learn.²⁸⁰

The training of traditional healers as with all other programmes are aimed at promoting the best possible standard of health and the WHO recommends that certain health problems in certain communities be identified so that the former goal be achieved.²⁸¹

An important way forward for the training of traditional healers is to identify the different types of healers that exist, according to the WHO. They recognize that there are at least two broad categories of healers such as the traditional birth attendant (TBA) and herbalist. Bonesetters and spiritualists fall under the broad category of herbalists.²⁸² The reason for this distinction, they argue is that for TBA's there is a standard type of training involved whereas with other healers, because of the functions they perform, the training is more varied.

In order to determine the level of the grade at which the training should be functioned, it is important to identify certain characteristics of healers such as age and sex; level of education; language; economic status; and traditional beliefs about healing.²⁸³

²⁷⁸ WHO 'Traditional healers as primary health care workers' *op cit* 111

²⁷⁹ WHO 'Traditional healers as primary health care workers' *ibid*

²⁸⁰ WHO 'Traditional healers as primary health care workers' *op cit* 112

²⁸¹ WHO 'Traditional healers as primary health care workers' *ibid*

²⁸² WHO 'Traditional healers as primary health care workers' *ibid*

²⁸³ WHO 'Traditional healers as primary health care workers' *ibid*

Furthermore, the WHO recommends the content for training programmes and suggests that three factors be looked at such as 'what the community wants and needs to improve their health, what THP's want to learn, and what the health agency's policies and priorities are for training THP's'²⁸⁴,

Under this function the WHO recommends that a policy be developed to recognize what trainees need to know by incorporating a skill that is mandatory, to impart income-producing skills so as to allow healers to become socially and economically independent and the last aspect in the step 2 category is to make the objectives and expected outcome of the training more known to both trainers and trainees.²⁸⁵

As step 3 of the recommendations the WHO lists various strategies in determining the training methods that would be useful for traditional healers. They are to develop a training plan whereby the healer would be imparted with a 'time-table' in which all activities should be listed as well as to what the sessions for the curriculum would be.²⁸⁶

Furthermore, that knowledge and skills for each healer should be grouped according to the skills that each healer is required to perform in the capacity as a certain category of traditional healer. For example TBA's should acquire the skill of being able to deal with health issues relating to women and herbalists should acquire some skills relating to herbs and remedies. New concepts which entail a more western idea of health should be incorporated with indigenous beliefs on health so as to make it easier for the healer to 'embrace the concept being taught' and in my opinion unconsciously embrace the idea that there is a need for collaboration between western and indigenous healing. Finally, under this agenda, to choose training methods which suit each individual so as to make the training process interactive and responsive.²⁸⁷

At step 4 the WHO further relates that the correct materials be selected for all training sessions. In this regard they suggest that audio-visual (AV) equipment be used and that such AV materials could be adapted to reflect a certain culture and environment,

²⁸⁴ WHO 'Traditional healers as primary health care workers' *op cit* 113

²⁸⁵ WHO 'Traditional healers as primary health care workers' *ibid*

²⁸⁶ WHO 'Traditional healers as primary health care workers' *ibid*

²⁸⁷ WHO 'Traditional healers as primary health care workers' *op cit* 114

preparation of own materials is also suggested as it would best reflect a the ideas that you are trying to incorporate as the trainer.²⁸⁸

As step 5 on the agenda the WHO relates an idea known as ‘training the trainers.’²⁸⁹

What this essentially entails is that those persons who are required to assist traditional health practitioners be ‘respectful of these healers, be sensitive to the different beliefs that healers have about traditional medicine and healing; and have appropriate skills to teach the PHC knowledge and skills required of the programme.’²⁹⁰ Another essential aspect is that ‘trainers’ should have the necessary communication skills so as to relate the aspects being taught to facilitate good partnership between these healers and other health professionals.²⁹¹ According to the WHO recommendations there are generally three different types of staff members involved in the training programme.²⁹² They are ‘primary training staff, professional health staff and traditional health practitioners.’²⁹³ Each, according to them, performs a different function. The ‘primary training staff’ has the task of ‘designing, implementing and evaluating the training programme.’²⁹⁴ The professional health staff on the other hand fulfills the role of teacher and consists of doctors, nurses, health educators and others in the health profession.²⁹⁵ Finally traditional health practitioners who are at a certain level in the programme are there to act as mentors fro those healers who are undergoing the programme as trainees.²⁹⁶

As step 6 WHO lists a lengthy evaluation procedure. They mention different types of evaluations that may be conducted by trainers. In this regard they make mention of ‘progress evaluations’ which would essentially take the form of an ‘examination or observing students.’²⁹⁷ The recommendations further alert us to other methods of assessing the progress of students. These are ‘informal testing, formal testing and

²⁸⁸ WHO ‘Traditional healers as primary health care workers’ *op cit* 115

²⁸⁹ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁰ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹¹ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹² WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹³ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁴ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁵ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁶ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁷ WHO ‘Traditional healers as primary health care workers’ *op cit* 117

examination, continuous observation, self assessment, peer assessment, assessing performance of trainers.’²⁹⁸ These categories entail the following.

- (a) Informal testing: This type of testing would exclude an examination-type evaluation. It would consist of questions and exercises so as best to evaluate the healer.²⁹⁹
- (b) Formal testing and examinations: This according to the WHO could be done in the form of a formal examination or orally so as to test the trainees’ knowledge.³⁰⁰
- (c) Continuous observation: This type of evaluation serves to evaluate the trainee on a continuous basis. It also serves to identify the various strengths and weaknesses of the trainee and assists the trainers to maintain a check on trainees at all times.³⁰¹
- (d) Self-assessment: This would entail that the trainees evaluate themselves. In this respect the standard of the evaluation should be clear and certain to the trainees.³⁰²
- (e) Peer assessment: In this regard it is encouraged that the trainees evaluate each other. Once again the standard of the evaluation should be set and it also serves as a good way for trainees to determine whether they have progressed.³⁰³
- (f) Assessing the performance of trainers: Here the trainers are also encouraged to evaluate themselves so as to ascertain whether their methods are up to scratch and whether or not they have achieved their goal of educating trainees in the programme.³⁰⁴

The WHO recommendations on training healers cover an extensive amount of training plans and evaluation procedures. This is commendable. If in the event that a country wished to implement a strategy of action for its trainee healers it would be in its best interest that this extensive plan be adhered to. However, it should be borne in mind that

²⁹⁸ WHO ‘Traditional healers as primary health care workers’ *ibid*

²⁹⁹ WHO ‘Traditional healers as primary health care workers’ *ibid*

³⁰⁰ WHO ‘Traditional healers as primary health care workers’ *ibid*

³⁰¹ WHO ‘Traditional healers as primary health care workers’ *ibid*

³⁰² WHO ‘Traditional healers as primary health care workers’ *ibid*

³⁰³ WHO ‘Traditional healers as primary health care workers’ *ibid*

³⁰⁴ WHO ‘Traditional healers as primary health care workers’ *ibid*

some of these trainee healers are often illiterate which would essentially make the formal examination style evaluation difficult. In this regard it is recommended that the language usage during the entire programme not be overly difficult and that healers who fall in that category be assisted by relating the questions in a more understandable way. However, once again this programme is merely a guideline and countries should, as is stated in the programme adapt to suit the culture, environment and social setting of not only that country but more specifically that community.

5.3 Southern African Development Community (SADC)

The SADC Protocol on Health was established after member states, of which South Africa is a member, had agreed on a policy framework for health to be established.

The Protocol on Health defines traditional health practitioner as ‘a people who use the total combination of knowledge and practices, whether explicable or not, in diagnosing, preventing or eliminating a physical, mental or social disease and in this respect may rely exclusively on past experience and observation handed down from generation to generation, verbally or in writing, while bearing in mind the original concept of nature which included the material world, the sociological environment whether living or dead and the metaphysical forces of the universe.’³⁰⁵

Other than the overt reference to traditional healers in the definitions section Article 20 further mentions that ‘States Parties shall endeavour to develop mechanisms to regulate the practice of traditional healing and for co-operation with traditional health practitioners.’

5.4.1 The culture of healing and how it affects health care

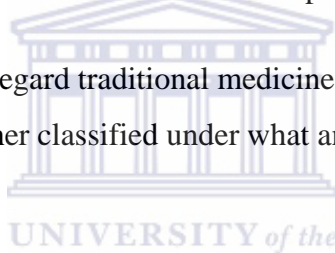
‘In the same sense in which we speak of religion or language or kinship as cultural systems, we can view medicine as a cultural system, a system of symbolic meanings

³⁰⁵ SADC Protocol on Health definition section

anchored in particular arrangements of social institutions and patterns of interpersonal interactions.³⁰⁶

This definition provided by Kleinman, describes quite accurately how a health system is viewed in relation to cultural perspectives. Traditional healing and bio-medical health care are interrelated and in the same breath somewhat different. They are interrelated in the sense that they both have a common goal that is to better health in society or a certain social context. Their differences are to be found in the basic ideology of causes and remedies for illnesses. Traditional healing ‘...view mental and physical health as essentially intertwined with religious, social, cultural, moral as well as physical and medical concerns.’³⁰⁷ Bio-medical health care on the other hand focus on a more scientific approach to healing and do not conform to the interrelation of ‘...spiritual, magical and mystical forces’³⁰⁸ as do traditional health practices.

Traditional healers and in that regard traditional medicine thus do not form part of what is termed biomedicine but are rather classified under what anthropologists terms as ethno medicine.³⁰⁹



Kleinman further argues that health care systems, and in my opinion specifically that of traditional health, reflect the health-needs of society. What this essentially means is that the health system would include and reflect ‘patterns of belief about causes of illnesses; norms governing choice and evaluation of treatment; socially-legitimated statuses, roles, power relationships, interaction settings, and institution.’³¹⁰ Thus the perceptions of societal beliefs about illness, treatment, power constructs and legitimated status of healers affect the development of traditional health care systems. This would explain why certain individuals consult traditional health practitioners more readily than other health professionals. The perception of health among the African people is traditional in nature. In a UNAIDS case study the view of Kleinman is to some extent reiterated. According to

³⁰⁶ Kleinman, A Patients and healers in the context of culture, an explanation of the Borderland, between anthropology, medicine and psychiatry 24

³⁰⁷ Urbasch, M African traditional healing systems: representation and restitution 11

³⁰⁸ Urbasch *ibid*

³⁰⁹ Richter, M ‘ Traditional medicines and traditional healers in South Africa’ 7

³¹⁰ Kelinman *op cit* 24

statistics it is common knowledge that the number of traditional healers far out number biomedical practitioners.³¹¹ Apart from some other reasons that may be put forward for this phenomenon, the obvious reality, as mentioned in the case study, is that traditional health practitioners are ‘...recognized, trusted and respected by their respective communities.’³¹²

‘Traditional healers provide client-centred, personalized health care that is tailored to meet the needs and expectations of their patients. This makes them strong communication agents for health and social issues.’³¹³ Furthermore, traditional healers provide medical care to persons in rural areas as modern medicine is not readily available in some these areas.³¹⁴

Apart from cultural factors, which shape traditional healing practices, there are also external factors, which are listed by Kleinman such as political, economic, social cultural, historical and environmental determinants.³¹⁵ According to Ngubane, for example she says that amongst the Zulu they believe that plants and animals affect their environment and people are adjusted to their particular region.³¹⁶ It is possible that the move from one region to another could lead to illness.

In light of the history that surrounds the practice that traditional healing has received for the past few decades we can deduce that factors such as politics, economics and history alike have all affected this institution of health.

³¹¹ WHO Traditional healers as community health workers *op cit* 3

³¹² UNAIDS Case study ‘Ancient remedies, new disease Involving traditional healers in increasing access to AIDS care and prevention in East Africa’ 7

³¹³ UNAIDS Case study *ibid*

³¹⁴ Felhaber, T and Mayeng, I South African traditional healers primary health care handbook Produced by The Medical Research Council Traditional Medicines Research Group of the University of the Cape Town and The University of the Western Cape 1

³¹⁵ Chana, HS; Schwab, L; Foster, A With an eye to good practice: traditional healers in rural communities 145

³¹⁶ Ngubane, H Body and mind in Zulu Medicine 24

Other than the colonial ban preventing certain types of healers from practicing during the mid -1980's and mid -1990's, political and economic factors further affected the social state of African people.³¹⁷ This was a socially, economically and politically oppressive time for African people. In addition to this individuals had little to no protection from government bodies. '...[P]eople who were threatened or under assault therefore found refuge in the protective powers of indigenous medicines.'³¹⁸

As the political situation of many Africans became more and more desperate, people resorted to the use of 'magical medicines' attainable only from traditional healers.³¹⁹

This aspect was a pivotal factor in shaping the way in which people viewed indigenous practices as it slowly started become notorious in that the dark side of the practice was highlighted.³²⁰ Other than the widespread disreputable apparent nature of healing, '...the desperation of many led to greater demands for medicines with magical cures and solutions, creating an opening for charlatans who preyed on desperate people.'³²¹

Many factors contributed to the attention traditional medicine received and thus led to the revival of indigenous medical practice, the proliferation of charlatans and the apparent spate of 'witch-killings' and 'muthi-killings' coupled with distorted coverage by the mass media, spurred interest in the practice from various quarters.'³²²

The Ralushai Commission was appointed in 1996 to investigate and report on the spate of 'witch-killings.'³²³ The Ralushai Commission had not been the only body that asserted the issue of witchcraft. The Institute for Multi-Party Democracy (IMPD) further looked at the Witchcraft Suppression Act and recommended that the statute be replaced with other legislation.³²⁴

³¹⁷ Xaba, T The transformation of indigenous medical practice in South Africa 23

³¹⁸ Xaba *ibid*

³¹⁹ Xaba *op cit* 23

³²⁰ Xaba *ibid*

³²¹ Xaba *ibid*

³²² Xaba *op cit* 34

³²³ Xaba *ibid*

³²⁴ Xaba *op cit* 35

A more in depth look at this issue will follow in this mini-thesis

Be that as it may, Xaba mentions that there were at least three aspects which proposed for the ‘normalisation’ of traditional medical practice.³²⁵ Firstly government itself had reviewed its existing legislation relating to healing which ultimately led to the tabling of a report by the Select Committee on Social Services.³²⁶ They proposed that a statutory national traditional medical council be established.³²⁷ Research centres conducted testing of indigenous medicines so as to attest to its medicinal advantages.³²⁸ This was done in collaboration with the Medical Research Council, the Universities of Cape Town and the Western Cape.³²⁹ Finally, traditional practitioners themselves tried to institutionalise their practice by establishing indigenous medical hospitals; indigenous medical practitioners were allowed to institute claims against certain medical aid funds.³³⁰ Finally in this regard the KwaZulu-Natal Traditional Healers’ Council (KZNTHC) was established to assist with the collaboration of all healers’ organizations in the area of KwaZulu-Natal.³³¹

5.4.2 Recommendations on incorporating traditional health practitioners into PHC programmes

One cannot attest as to whether traditional healers should be incorporated into primary health care (PHC) programmes if we do not understand what primary health means. ‘...[I]t is the first point of contact with the formal health sector. It generally includes maternal and child care, prevention and control of locally endemic diseases, immunization against the main infectious diseases and appropriate treatment of common diseases and injuries.’³³²

In the 1978 Declaration of the Alma Ata it was recommended that countries use traditional health practitioners in primary health care (PHC) programmes. The Alma Ata

³²⁵ Xaba *ibid*

³²⁶ Xaba *ibid*

³²⁷ Xaba *ibid*

³²⁸ Xaba *ibid*

³²⁹ Xaba *ibid*

³³⁰ Xaba *ibid*

³³¹ Xaba *ibid*

³³² Pillay, K Tracking South Africa’s progress on health care rights: are we any closer to achieving our goal? 61

conference recommended ‘that governments give high priority to the full utilization of human resources by defining the role, supportive skills, and attitudes required for each category of health workers according to the functions, that need to be carried out to ensure effective primary health care, and by developing teams composed of community health workers, other developmental workers, intermediate personnel, nurses, midwives, physicians, and, where applicable, traditional practitioners and traditional birth attendants.’³³³

Thus this is a clear mandate from the WHO for governments to define the role that these healers can play for members of the community as primary health care (PHC) providers.³³⁴ In order to incorporate healers into PHC programmes one has to initially admit that there should be a viable link between indigenous healing systems and modern health care. Integration between these groups is pivotal for the promotion of better health services for all. As Ronkopo boldly puts it ‘[I] individuals should understand that traditional health care systems cannot be marginalized. Instead, they should be seen as complementary institutions, which have a great deal to offer. Today it is politically incorrect to view modern medicine as the “main health care system.” It is simply an option among others.’³³⁵

Freeman and Motsei adequately deal with this issue in their recommendations to develop a better link between western and indigenous health. They argue that their approach of mentioning the positive and negative aspects is a good way of invoking debates around the issue, which would ultimately better policy developments.³³⁶ I would have to agree with this argument.

They mention three possibilities so as to better link, as they put it, traditional health and modern medicine.

³³³ WHO Traditional healers as community health workers : a review of projects using traditional healers as community health workers 3

³³⁴ WHO Traditional healers as community health workers : a review of projects using traditional healers as community health workers *ibid*

³³⁵ Ronkopo, MJ The influence of traditional health practices on human development: Implications for human service delivery 20

³³⁶ Freeman, M and Motsei, M Planning health care in South Africa- is there are role for traditional healers? 1183

‘Option 1: Incorporation’

The integration of traditional healers into primary health care systems is an important starting point.³³⁷ In this sense healers would be performing pre-designated tasks and research.³³⁸ In this regard the practice of traditional health practitioners are regulated and to a certain extent controlled by scientific mandate.³³⁹ If there are certain practices exercised by traditional healers that may be seen as harmful in the opinion of science, then that practice should be ‘discouraged and even banned.’³⁴⁰ According to Freeman and Motsei, the practice of incorporation has already begun in South Africa, which has resulted in patients which find themselves in areas where healers are practicing receive their western medication from traditional healers.³⁴¹ This would prevent them performing the daunting task of having to visit a medical practitioner whose practice is very often quite a distance from the patient.³⁴²

‘Option 2: Co-operation collaboration

In this type of setting western and traditional practitioners do not ‘mix’ as with option 1 but rather acknowledge the importance of each sector.³⁴³ Freeman and Motsei mention that this type of co-operation may take the form of ‘mutual referral’ which would essentially entail both practitioners, western and traditional, recognize that each of them have a certain area of expertise and practice.³⁴⁴ Having established and acknowledged this are of expertise they would then refer the patient to the other practitioner only once satisfied that the others areas of expertise is best suited.³⁴⁵ The patient may him/herself decide to that they would need the assistance of both western and traditional practitioner.³⁴⁶ Rankopo reiterates this by arguing that in instances where the person is

³³⁷ Freeman, M and Motsei, M *op cit* 1184

³³⁸ Freeman, M and Motsei, M *ibid*

³³⁹ Freeman, M and Motsei, M *ibid*

³⁴⁰ Freeman, M and Motsei, M *ibid*

³⁴¹ Freeman, M and Motsei, M *ibid*

³⁴² Freeman, M and Motsei, M *ibid*

³⁴³ Freeman, M and Motsei, M *ibid*

³⁴⁴ Freeman, M and Motsei, M *ibid*

³⁴⁵ Freeman, M and Motsei, M *ibid*

³⁴⁶ Freeman, M and Motsei, M *op cit* 1185

ailed by both illness and ‘psychosocial disturbances’ that person may also then opt to use both the western and traditional service professionals.³⁴⁷

‘Option 3: Total integration’

According to Freeman and Motsei this option would exist where the two extreme systems merged to form one system.³⁴⁸ They mention that this could take many forms whereby, for example, explaining the illness to the patient would form part of both paradigms.³⁴⁹

‘Taking TB for instance a person may be informed of the existence of the tubercle bacillus and be provided with a scientific explanation of how the disease has taken root in the biological system, but rather at the same time be informed why he or she of all people developed the problem with an explanation involving witchcraft, annoyance of the ancestors or other supernatural reasons.’³⁵⁰ The same could be said of the medication that these healers use. They could be an integration of Western and traditional spheres.

5.4.3 Debates for and against including traditional healers as health care resource

Freeman and Motsei have presented some very interesting arguments for and against integration of healers. These will all be discussed in the order that they have referred to them.

(a) Lack of adequate resources serving the ‘African’ population

Conventional health is somewhat inadequate for the service of African people who find themselves in rural areas. It is estimated that 70 – 80% has almost no access to health care services.³⁵¹ Even though South Africa is one of the more developed countries in Africa, the health problem facing South Africa is still of a serious nature.³⁵² The lack of adequate health care services adversely affects the population and subsequently has negative implication on the economy. Government’s should tap

³⁴⁷ Rankopo, MJ The influence of traditional health practices on human development: Implications for human service delivery 13

³⁴⁸ Freeman, M and Motsei, M *ibid*

³⁴⁹ Freeman, M and Motsei, M *ibid*

³⁵⁰ Freeman, M and Motsei, M *ibid*

³⁵¹ Freeman, M and Motsei, M *op cit* 1185

³⁵² Freeman, M and Motsei, M *ibid*

into traditional healers as a resource to improve the standard and availability of health care services.³⁵³

(b) African healing for Africans

Embedded in African healing is a strong expression of culture and tradition. Non-recognition centering on this practice and other cultural aspects have crushed tradition and numbed culture. Recognition and integration of healers will not only revive this culture but also promote collaboration in this sphere by emphasizing the fact that traditional healing is part and parcel of South African heritage. Other than that aspect, more practically, as Freeman and Motsei put it, there are a vast number of African people who consult traditional healers.³⁵⁴ This makes it easier for them to relate to these healers as they understand the language, culture and appreciate the basic beliefs.

(c) Process of traditional healing

Traditional health care, as we have mentioned earlier, deals with the person as a whole which would entail the person's entire being, spiritual, mental and physical.³⁵⁵ Western medicine on the other hand has been reported to be mechanical in nature and focus is placed solely on the physical aspects of the persons' health. The 'traditional healer becomes a full part of the socio-cultural life of the members of the community as a whole.'³⁵⁶

(d) Effectiveness of traditional medicines

Traditional remedies for have been proven to be successful in treating certain ailments.³⁵⁷

³⁵³ Freeman, M and Motsei, M *ibid*

³⁵⁴ Freeman, M and Motsei, M *op cit* 1186

³⁵⁵ Freeman, M and Motsei, M *ibid*

³⁵⁶ Freeman, M and Motsei, M *ibid*

³⁵⁷ Freeman, M and Motsei, M *ibid*

(e) Harmful effects of traditional medicines

Apart from the revelations in the above factor there are certain instances where traditional remedies have caused more harm than good.³⁵⁸ Examples of these are the instances where ‘traditional vaccinations are done with an unclean razor’ and where enemas have been given to children to prevent diarrhea.³⁵⁹

(f) Traditional healing belongs to ‘pre-civilization’

Traditional healers have a ‘mystical’ illness and disease unlike western practitioners who view illness and disease merely as scientific problems.³⁶⁰ It has been said that traditional healing is superstitious, magical and harmful.³⁶¹ Another factor is that within the traditional health paradigm it is argued the belief that illness and disease is caused by one person inflicting harm upon another, this aspect could lead to unharmonious and detrimental practices toward ones neighbour, kin, friend etc.³⁶²

(g) ‘Colonising’ traditional medicine

In some instances it is the traditional healers themselves who do not want to be part of Western health care system.³⁶³ The other argument is that if traditional healers are incorporated into the health system as with option 1 mentioned earlier, and then they would lose some of their traditions to make way for scientific practice of healing.³⁶⁴ This is understandable as healers in that kind of situation are not practicing indigenous healing any longer but are now the puppets of the western medical system. They are encouraged to merely carry out services that are designed by scientific approaches to health care.³⁶⁵

³⁵⁸ Freeman, M and Motsei, M *ibid*

³⁵⁹ Freeman, M and Motsei, M *ibid*

³⁶⁰ Freeman, M and Motsei, M *ibid*

³⁶¹ Freeman, M and Motsei, M *ibid*

³⁶² Freeman, M and Motsei, M *ibid*

³⁶³ Freeman, M and Motsei, M *op cit* 1187

³⁶⁴ Freeman, M and Motsei, M *ibid*

³⁶⁵ Freeman, M and Motsei, M *op cit* 1184

Furthermore, it has been argued that traditional healers are only granted recognition because they lessen the burden of the modern Western health care system.³⁶⁶

(h) Threat to traditional healers' status and remuneration

It is argued that recognition of healers would adversely affect their status as once they are registered they would then be under the scrutiny of certain regulations and most certainly pieces of legislation. Another argument in this regard is that their remuneration may also decrease once they are incorporated into a national health policy. At present though and under the Traditional Health Practitioners Act the remuneration of traditional healers are not regulated but the Act merely provides that payment may come under scrutiny in certain instances.³⁶⁷

(i) Political – economic perspective

It has been argued that there may be a contrast between traditional healing and democratic health care practices.³⁶⁸ The traditional healer carries a great amount of weight in respect of the 'doctor-patient' paradigm and is thus an instrument of authority in this regard. Once the authority was removed then that would create a bigger problem in the sense that now the very nature by which the healer practices becomes ineffective.³⁶⁹ Another problem is that with traditional health practice the real cause of an ailment could be masked because a more cultural or religious argument would be put forward.³⁷⁰

(j) Practical obstacles to inclusion

Although South Africa is in the process of registering traditional healers under the banner of a health programme this is a tedious one.³⁷¹ An example of this would be that when a person is to register as a traditional health practitioner the person should

³⁶⁶ Freeman, M and Motsei, M *ibid*

³⁶⁷ Refer to Chapter 2 'Traditional Health Practitioners Act'

³⁶⁸ Freeman, M and Motsei, M *op cit* 1187

³⁶⁹ Freeman, M and Motsei, M *ibid*

³⁷⁰ Freeman, M and Motsei, M *ibid*

³⁷¹ Freeman, M and Motsei, M *op cit* 1187

first undergone the necessary training, testing, who supervised the person and their length of practice.³⁷² All this is to separate the charlatans from the real healers. Other than this lengthy procedure the financial implications of paying traditional healers registered as such would be far-reaching.³⁷³

The arguments put forward may not all have substance but they are valid points non-the-less. In many projects where traditional healers have been incorporated into the primary health care programme, examples to be mentioned later, they have been proven to have developed better skills within which the area they practice.

As Hoff has described, in countries such as China, Nepal, Nigeria, Sudan to name a few, traditional healers have greatly developed their skill and have developed good relationships with western medical practitioners.³⁷⁴

In Swaziland for example, the Health Education Centre and the Swaziland Traditional Healers' Society had instituted a programme to assist with bridging the gap between western and traditional healers. This project assisted greatly with developing workshops to better integration at this level.³⁷⁵

Hoff also has some recommendations for the involvement of traditional healers in the primary health care sector.

Hoff reiterated the stance taken by the WHO in that he mentions that government ministries should formulate health policies and promote the use and training of traditional healers in primary care.³⁷⁶ He suggests that meetings, seminars and workshops should be developed so that traditional healers and medical practitioners can collaborate and express their views and establish common goals in the sphere of health.³⁷⁷ Defining the role that each traditional healer should play is an equally important factor. This aspect should be given careful consideration as Hoff argues that when one introduces the

³⁷² Freeman, M and Motsei, M *ibid*

³⁷³ Freeman, M and Motsei, M *ibid*

³⁷⁴ Hoff, W 'Traditional healers and community health' 182

³⁷⁵ Hoff, W and Maseko Nhlavana, D 'Nurses and traditional healers join hands' 412-413

³⁷⁶ Hoff *op cit* 185

³⁷⁷ Hoff *ibid*

traditional healer, generally a private practitioner into primary health care, a community-based venture, there may be some difficulty from the healers' perspective.³⁷⁸ He argues that in this regard the opinion of members not only of the health sector but also of the community should be looked at.³⁷⁹ The healer in this regard should fulfill the role, which he/she is best suited for in terms of 'levels of responsibility, traditional status and cultural practices of healers.'³⁸⁰ He further argues that the 'planning, implementation and evaluation of programmes'³⁸¹ should be done with input from all parties such as 'representatives from governmental health departments, other related departments, nongovernmental organizations, traditional healers, and the community.'³⁸²

Reiterated by Hoff is the 'referral system' mentioned by Freeman and Motsei in their recommendation on co-operation and collaboration. Hoff argues that this type of system enables modern and traditional health workers to collaborate on institutions of health care and would thus lead to a mutual learning process.³⁸³ When developing training programmes the parties involved should understand that the level at which traditional healers function may differ from that of the western practitioner.³⁸⁴ Many of these healers have low levels of literacy.³⁸⁵ This should be borne in mind when developing training programmes and as has been indicated by the recommendations of the WHO earlier in this chapter, the appropriate materials should be used.³⁸⁶ For traditional healers to be properly incorporated into primary health paradigm, Hoff argues that models of pilot projects conducted on the same aspect should be looked at.³⁸⁷ He further argues that evaluation mechanisms are imperative in judging the success of the programme.³⁸⁸

³⁷⁸ Hoff *op cit* 186

³⁷⁹ Hoff *ibid*

³⁸⁰ Hoff *ibid*

³⁸¹ Hoff *ibid*

³⁸² Hoff *ibid*

³⁸³ Hoff *ibid*

³⁸⁴ Hoff *ibid*

³⁸⁵ Hoff *ibid*

³⁸⁶ Hoff *ibid*

³⁸⁷ Hoff *op cit* 187

³⁸⁸ Hoff *ibid*

5.5 CONCLUSION

The WHO is a leader in global health issues. It was realized that traditional healers and by implication traditional medicine could play a pivotal role in the health systems of countries. The WHO has recognized that traditional health practices should be tapped as a source of sustainable health. This is especially essential in sub-Saharan Africa where 80% of people consult traditional healers as their first source of health procurement. This is however easier said than done. In this regard they have issued guidelines for training traditional health practitioners in primary health care. At the first stage they suggest that planning an adequate training program is a key factor. Here the involvement of government ministries of health, NGO's and other health agencies are important in assessing those particular countries' health policies so as to determine how the programme should run. At this stage the main focus is on what the traditional health practitioner wants to learn from the programme. The involvement of the community and the traditional health practitioner is essential. The WHO find it essential that there is a clear indication of the content of the training, that the training methods be appropriated to suit the audience, that the training materials are adequate enough to convey what is being taught, the trainers who assist in these programmes be open-minded and are able to communicate with healers and finally that the healers be evaluated.

The SADC in its Protocol on Health further urges that nations develop mechanisms to incorporate traditional health practices into their nation's health policy. South Africa is a member state of the SADC.

Apart from traditional healing having had a rigid existence during the colonial period its recognition was further maimed during the late 20th century. During the period of political oppression in South Africa the harshness of government power was further felt. Unfortunately the oppressive rules and regulations mostly affected African people. They then sought to alleviate themselves from this hardship and often sought the assistance of traditional healers. They came to rely very heavily on *muthi* in order to find some sort of protection from not only the government but also even more so from the economic slum they found themselves in. As this mini-thesis has alluded to earlier, *muthi* is a medicinal

concoction which ingredients are more often than not body parts. Other than the possibility that the procurement of these ingredients were done by harmful means, the situation often arose that the *muthi* medicine failed to assist the person who was making use of it. A spate of ‘witch-killing’ occurred during the 1980’s-1990’s. The Ralushai Commission was established in response to these murders and issued guidelines on dealing appropriately with witchcraft. It is therefore evident that not only did colonialism affect the practice of traditional healers but so too years after colonialism was the practice of traditional healing still in the firing line. The practice was seen as undesirable, superstitious and even harmful. This made and still makes it difficult for collaboration between western practitioners and traditional healers. There are however various recommendations made in this regard. The initial step in my opinion would be that people should be educated about the practice of traditional healing so that taboos associated with the practice are done away with. Even though changing mindsets would take a long time, the plus side is that mindsets have already changed. Traditional healers and western practitioners are now joining forces to assist in providing medical care. It should be noted that motives behind this sudden merger has been questionable. It is argued that for example western practitioners have realized that incorporating healers into primary health care systems would lessen the burden placed on them. Be that as it may, incorporation of healers would enable the roll out of health care services to increase especially in rural communities where they are in shortage.

The incorporation of traditional healers would no doubt better the health care system in South Africa especially since we have legislation regulating the practice. Legislation is the first step to incorporation. Traditional healers have a right to practice but admittedly it would be more beneficial if they assisted in primary health care. South Africa lacks available resources in that sphere and traditional health care could aid in this regard. However, it should be borne in mind that attaining this goal would require not only that attitudes change but more practically that a good training plan be developed.

CHAPTER 6 - TRADITIONAL HEALTH PRACTITIONERS, HIV/AIDS AND RIGHT TO ADEQUATE HEALTH CARE

6.1 Introduction

The HIV/AIDS pandemic has been the topic of many health issues globally and in the South African perspective. So much so that the United Nations has formulated a task team to deal with the issue. The WHO has also recommended that with the aid of traditional healers countries could better their response to this threat. The SADC has also drafted a Declaration on HIV/AIDS in which they also encourage the use and integration of traditional healers to fight the scourge of the disease.

It has been argued that a constructive way, in which the disease can be combated, is if the resources available in the health sector of each country are increased. With the aid of traditional healers this goal could be achieved. Traditional healers are a resource that needs to be tapped. Therefore accepting the fact that traditional healers could aid in this regard, especially by western medical practitioners, would lead us closer to providing adequate care and prevention in the HIV/AIDS paradigm. Traditional healers should be trained in dealing adequately in HIV/AIDS care. Furthermore taboos often thought to be reinforced by them should also be eradicated. All these points will be referred to in this chapter.

In addition to the discussion on HIV/AIDS, reference will also be made to the right of access to adequate health care services. This right will be discussed in relation to traditional health care and serves to establish what the right actually entails. In this regard reference will be made to international instruments in which the right to health is discussed in lengthy detail. Mentioning the Constitution of 1996 will also refer to the stance in the South African perspective. The Constitutional rights contained in the Bill of rights will be referred to, as they all seem to enforce and provide for the practice and use of traditional health care services.

6.2 Traditional health practitioners and the fight against HIV/AIDS

‘Traditional healers are close to communities and can play a major role in treating and combating HIV/AIDS’³⁸⁹

The WHO has recognized the participation of traditional healers in health care issues specifically those dealing with the HIV/AIDS pandemic. As early as the 1990’s the WHO has been encouraging nations to adopt traditional healing in national reproductive and AIDS programs.³⁹⁰

Other than the WHO encouraging this at an international level, the SADC Declaration on HIV/AIDS follows a similar approach. This approach will be discussed.

The Treatment Action Campaign (TAC) also drafted a discussion mini-mini-thesis on the same issue and has recognized the role that traditional healers can play in strengthening the nations’ response to the HIV/AIDS epidemic.

With traditional health practice on the brink of social and medical inclusion and moreover the inclusion of traditional health practitioners in PHC programmes, it has become ‘easier’ for healers to become more involved in the HIV/AIDS problem. Traditional healers have already become involved in counseling programmes and the Medical Research Council (MRC) is in the process of testing traditional medicine to ascertain whether they are a viable source of medicinal procurement.

In a case study published by the United Nations programme on HIV/AIDS (UNAIDS) in June 2002 they raise a very valid point in response to the HIV/AIDS pandemic. They argue that the only way in which the HIV/AIDS pandemic may be combated is if we tap into local resources such as traditional healers.³⁹¹ They have further acknowledged that at the 2001 International Conference on AIDS in Africa, it had been said that the only way

³⁸⁹ Neale-May, H ‘Traditional healers can join hands for fight against HIV/AIDS’ <www.hican.org.za/arrtemp>

³⁹⁰ Leclerc-Madlala, S Traditional healers fight against HIV/AIDS in South Africa 62

³⁹¹ UNIADS Case study 2002 ‘Ancient remedies, new disease: involving traditional healers in increasing access to AIDS care and prevention in East Africa’ 5

in which the disease may be combated is if the resources in health services are increased.³⁹²

The SADC Declaration on HIV/AIDS recognises that ‘partnerships with all stakeholders including civil society, cultural and faith-based organisations, tripartite social partners, Non-Governmental Organisations, traditional health practitioners, the private sector, international institutions, cooperating partners and the media are vital if, we, are to succeed in our key intervention areas such as HIV surveillance, prevention, treatment, care, support, monitoring, research, nutrition, poverty eradication and adequate resource mobilisation for combating the HIV/AIDS pandemic.’³⁹³ The SADC therefore recognises the role that traditional healers can play in HIV/AIDS intervention by providing and promoting treatment, support, care and research to name a few instances.

Leclerc-Madlala says that we need to come to terms with the rate and number of HIV/AIDS infected persons. She supports her arguments when she mentions that South Africa’s rate of HIV infection is the fastest growing in the world and further that an estimated 1700 people die of the disease daily.³⁹⁴ An estimated 4, 3 million South Africans have been infected with HIV in July 2001.³⁹⁵ These statistics are shocking and something has to be done in this regard. With the rate and number of HIV infections and AIDS related deaths on the up rise, there is a definite need for traditional healers to become involved in fostering understandings of the disease especially in rural areas.

The strain put on western medical care in relation to the pandemic is high and traditional healers can in some way alleviate this strain by assisting in HIV/AIDS programmes.³⁹⁶ Leclerc-Madlala further argues that the implementation and use of traditional healers in community-based AIDS projects for example are not as easy as suggested.³⁹⁷ There are many problems surrounding the incorporation of healers into medical health care system and more problematic is the incorporation of healers to assist with HIV/AIDS

³⁹² UNIADS Case study 2002 Ancient remedies, new disease: involving traditional healers in increasing access to AIDS care and prevention in East Africa *ibid*

³⁹³ SADC Declaration on HIV/AIDS Preamble 2-3

³⁹⁴ Leclerc-Madlala *op cit* 61

³⁹⁵ Leclerc-Madlala *ibid*

³⁹⁶ Richter, M Traditional medicines and traditional healers in South Africa 11

³⁹⁷ Leclerc-Madlala *op cit* 62

intervention.³⁹⁸ The problem manifests itself in the way in which traditional health has is viewed by persons in western medical circles. As she puts it ‘...that [role of traditional healers in HIV/AIDS intervention] continues to be only marginally appreciated by the modern South African biomedical fraternity, a fraternity that essentially controls the politics of AIDS and determines the direction of national policy in relation to disease.’³⁹⁹

Contrary to these debates traditional healing and medicine has assisted in carrying the western medical ‘burden’ of providing care and dealing with the HIV/AIDS epidemic. This was the opinion expressed at a conference held in Uganda on the effect of traditional healers on HIV prevention and care.⁴⁰⁰

In 1992 a project was launched to train traditional healers in AIDS prevention.⁴⁰¹ The training covered topics such as STDs and HIV transmission, prevention, condom use, infection control and issues of death and dying.⁴⁰² This project had achieved its goal of educating healers about HIV/AIDS, as healers who were trained under the projects were able to impart valuable information to those who trained under them.⁴⁰³ Other successful AIDS prevention projects were that established by the AIDS Foundation of Durban and unlike the 1992 project they allowed all healers into the programme even if they were not members of a traditional healers’ organisation.⁴⁰⁴

Leclerc-Madlala lists a host of factors on the agenda for AIDS projects of which they include educating healers on general facts about HIV/AIDS, information about the local HIV/AIDS situation, identification of harmful practices and how to replace these with safer alternatives, diagnosis of STI’s and other HIV-associated illnesses (e.g. here TB) and when referral and treatment at a bio-medical facility can help the patient, condom use

³⁹⁸ Leclerc-Madlala *ibid*

³⁹⁹ Leclerc-Madlala *ibid*

⁴⁰⁰ As has been quoted in Richter, M Traditional medicines and traditional healers in South Africa page 11 at footnote 18

⁴⁰¹ Leclerc-Madlala *op cit* 64

⁴⁰² Leclerc-Madlala *ibid*

⁴⁰³ Leclerc-Madlala *op cit* 65

⁴⁰⁴ Leclerc-Madlala *ibid*

and promotion, counselling and talking about sex to people of different ages and gender, home-based care and collaboration with bio-medical health practitioners and facilities.⁴⁰⁵

Leclerc-Madlala further mention that the expected outcomes of the training would be among other things to provide increased awareness around HIV/AIDS issues, give spiritual and psychological support, counsel people and encourage them to adopt safer-sex behaviour and to improve referral to bio-medical services.⁴⁰⁶

However traditional healers have come under much scrutiny with issues surrounding the idea that healers have aided in the spread of HIV/AIDS. Arguments are that healers do not properly sterilize the razors they use when treating their patients. Another argument is that traditional healers have contributed to the idea that if a man sleeps with a virgin it will cure AIDS. All these misunderstandings can only be remedied if traditional healers are educated in dealing with these issues. This can only be done if they undergo the necessary training and instruction.

6.3 Right to adequate health care services

‘Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity’⁴⁰⁷

The right to health may only be realised if the essential policies and legislation dealing with it are formulated. Only then would the right to health be worth pursuing. Apart from this the right to health contains legally enforceable components such as the right not to be discriminated against when exercising your rights.⁴⁰⁸ At a regional level the right to health is entrenched in the African Charter on Human and Peoples Rights of 1981.⁴⁰⁹

⁴⁰⁵ Leclerc-Madlala *op cit* 66

⁴⁰⁶ Leclerc-Madlala *ibid*

⁴⁰⁷ Article 12 of the International Covenant on Economic, Social and Cultural Rights

⁴⁰⁸ General Comment Number 14, 2000 ‘The right to the highest attainable standard of health’ 679

⁴⁰⁹ Article 16

The right to health is regarded as an economic, social and political right and is dependent upon the exercise of other rights such as that to food, housing, human dignity, privacy.⁴¹⁰

The right to health and what it actually entails is however somewhat difficult to establish.⁴¹¹ The reason for this according to Toebes is that health in it is difficult to define the concept of health is influenced by its surroundings and is thus influenced by geographic, cultural and socio-economic factors.⁴¹²

Chirwa mentions that 'In order to sustain a healthy status, access to health care services and the availability of the underlying preconditions for health are both essential.'⁴¹³

In this definition we find at least two elements, which are encompassed in the right to health. The first is that of *health care* which include 'curative as well as preventative health care' and *underlying preconditions for health*, which would 'include safe drinking water, adequate sanitation, adequate nutrition, health-related information, environmental health, and occupational health.'⁴¹⁴

The WHO best describes the above elements in the 1978 Primary Health Care strategy when they stipulate that the core content of the right to health care. They have stated that the elements of the first leg, concerning *health care* are:

- Maternal and child health care, including family planning
- Immunization against the major infectious diseases
- Appropriate treatment of common diseases and injuries
- Provision of essential drugs

⁴¹⁰ General Comment Number 14 *ibid*

⁴¹¹ Faure, V Bodies and politics : Healing rituals in the Democratic South Africa – Introdution 2

⁴¹² Toebes, B The right to health' economic social and cultural rights 174

⁴¹³ Chirwa, D The right to health in international law: Its implications for the obligations of state and non-state Actors in ensuing access to essential medicine *SAJHR* Vol. 19 541

⁴¹⁴ Toebes *loc cit*

Concerning *underlying conditions for health*

- Education concerning prevailing health problems and the methods of preventing and controlling them
- Promoting of food supply and proper nutrition
- Adequate supply of safe water and basic sanitation.⁴¹⁵

The right to health contains other elements, which is dependent upon the state of health in that particular country. They are availability, accessibility, acceptability and quality.⁴¹⁶ These will be explained in greater detail as they better define how health issues should be handled in certain countries.

The availability of health resources basically mean that a state should have available the quantity of health services that is required for its citizens. Accessibility means that all health facilities should be accessible to everyone. This element has a further four overlapping dimensions. They are non-discrimination, physical accessibility, economic accessibility and information accessibility. It entails that citizens should have access to the health services without being discriminated against, should be within reach for members of the population, should be affordable and should be transparent.⁴¹⁷

Acceptability of health facilities imply that goods and services should be 'respectful of medical ethics and be culturally appropriate.'⁴¹⁸ The final element that health facilities should have is the proper standard of quality in respect of their medications, medical staff and hospital equipment.⁴¹⁹

In South Africa health care service delivery is an essential part of traditional health. The elements that we have discussed should form a basis for better health procurement in South Africa. In General Comment 14, the Committee has concluded that where

⁴¹⁵ As referred to Toebes 177

⁴¹⁶ General Comment Number 14, 2000 'The right to the highest attainable standard of health' 681-682

⁴¹⁷ General Comment Number 14 *ibid*

⁴¹⁸ General Comment Number 14 *ibid*

⁴¹⁹ General Comment Number 14 *ibid*

indigenous people are prevalent then the health services on that community should be 'culturally appropriate, taking into account traditional preventative care, healing practices and medicines.'⁴²⁰ It goes further and emphasises that states should provide the necessary resources for indigenous persons so that they may 'design, deliver and control such resources.'⁴²¹ Furthermore, indigenous plants and minerals should also be protected.⁴²²

The South African Constitution specifies health care as an inherent right in the Bill of Rights.⁴²³ The question is whether this right to adequate health care services incorporate the right to visit traditional health practitioners?

Chirwa explains that even where international and regional human rights instruments have defined health and access to health care in different way. He argues that access to 'medical care in general including preventative, rehabilitative and curative treatment' as well as access to 'essential medicine form central part of the right to health.'⁴²⁴

There are certain state obligations inherent in the exercise of the right to health. States have a duty to respect, protect and fulfil basic rights.

As far as the duty to respect is concerned the state should refrain from preventing access to fundamental rights and prevents the state from impairing access to basic human rights.⁴²⁵ If in the event that the state denies access to medicines fro example then this would mean that the state is not complying with its duty to respect rights.⁴²⁶ Chriwa also mentions that the state would be violating this duty if they adopt legislation or any other policy, which restricts the enjoyment of the right of access to essential medicines.⁴²⁷

⁴²⁰ General Comment Number 14 686

⁴²¹ General Comment Number 14 *ibid*

⁴²² General Comment Number 14 *ibid*

⁴²³ Section 27 of the Constitution of 1996

⁴²⁴ Chirwa, DM 'The right to health in international law: its implications for the obligations of state and non-state actors in ensuring access to essential medicine' 553

⁴²⁵ Chirwa *op cit* 558

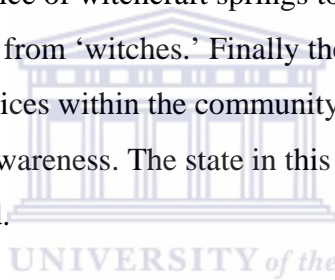
⁴²⁶ Chirwa *ibid*

⁴²⁷ Chirwa *ibid*

As far as the duty to protect is concerned states should perform positive action by protecting the right to health care of its citizens against malpractice of third parties.⁴²⁸

Finally the duty to fulfil also consists of the duty to promote. As Chirwa clearly expresses the state is under an obligation to ensure that individuals are able to exercise their rights by promoting tolerance and awareness.⁴²⁹ The duty to fulfil finds application where the state is under an obligation to make sure that rights of its citizens are realised.⁴³⁰

If we were to apply these three obligations to the traditional health situation in South Africa we would argue that the government has, as is required with the first duty, an obligation to refrain from preventing its citizens from consulting traditional healers. The state also has a duty to protect its citizens from acts of malpractice by third parties. Here legislation prohibiting the practice of witchcraft springs to mind. The state in this instance would be protecting its citizens from 'witches.' Finally the government has the duty to promote traditional health practices within the community in order to create an environment of tolerance and awareness. The state in this regard should ensure that the rights of its citizens are realised.



Are their rights mentioned in the Constitution, which makes reference to traditional healing? Do these rights protect the practice of traditional healing and more importantly do they protect the interests of the public who access traditional health care?

(a) Everyone has the right to human dignity⁴³¹

In relation to traditional healing this would mean that patients as well as healers should be treated with respect and patients should not be subjected to inhumane or degrading treatment.

⁴²⁸ Chirwa *op cit* 559

⁴²⁹ Chirwa *op cit* 560

⁴³⁰ Chirwa *ibid*

⁴³¹ Section 10

(b) Everyone has the right to privacy⁴³²

This is a very important issue as far as indigenous healing is concerned. Traditional healers should be aware of the fact they cannot divulge any confidential information about their patients to anyone else without the consent of their patients.

(c) Everyone has the right to equality and non-discrimination⁴³³

Traditional health as we know has not been afforded the same respect as western medicine. This should be alleviated so that traditional healers are not discriminated against.

(d) Everyone has the right to freedom of conscience, religion, expression, thought, belief and opinion and the right to culture⁴³⁴

Traditional healers and their patients have the right to practice their occupation and moreover their culture freely and without intervention. However they should ensure that they follow strict guidelines to prevent any violation of the human rights of others.

(e) Everyone has the right to freedom of trade, occupation and profession⁴³⁵

Traditional healers are guaranteed in the constitution that they may practice their profession freely unless once again it infringes on the rights of others

(f) Everyone has the right to have his or her environment protected⁴³⁶

Inherent in traditional healing is the practice of traditional medicine. Traditional healers should ensure that they protect the environment when acquiring herbs and should be actively involved in the conservation of land.

⁴³² Section 14

⁴³³ Section 8

⁴³⁴ Section 15 and Section 30

⁴³⁵ Section 22

⁴³⁶ Section 24

(g) Everyone has the right of access to health care services⁴³⁷

Citizens have the power to make their own choice in whether they wish to be treated by traditional healers, medical practitioners or both. They cannot be prevented from exercising this choice.

6.4 CONCLUSION

HIV/AIDS is a deadly killer. It wreaks havoc in the lives of people who die of it every moment. South Africa's rate of HIV related deaths has increased. This has led government to recognise the role that traditional healers can play in effectively providing counselling to persons who are riddled with the disease and to those who have lost family members and loved ones.

Traditional healers have long been recognised by the WHO as a party who could promote better health care services, as they are closest linked to communities in which they practice. In addition to this the WHO has further commended that traditional healers could actively assist governments with their HIV/AIDS care programmes and plans of action.

The SADC Declaration on HIV/AIDS has further reiterated the stance taken by the WHO and has summoned governments to appropriately merge traditional healers into the system of HIV/AIDS care.

Many recommendations in this regard have been made and should be followed by governments. The South African government should attempt to incorporate traditional health practices into HIV/AIDS programmes as the number of infected persons is steadily increasing. A viable recommendation is that traditional healers should be trained in aspects relating to HIV/AIDS. This would lessen the burden placed on western medical practitioners. However this is easier said than done. There are still many who oppose the

⁴³⁷ Section 27(1)(a)

incorporation of healers into the health care system. To change mindsets is a daunting task. If healers were perhaps trained in areas such as HIV surveillance, treatment, prevention and education this mindset could change. However regardless of that fact undergoing training is definitely in the best interest of the traditional healers concerned. Traditional healers are a valuable tool and training in spheres of HIV/AIDS would lead to greater awareness of how to combat the disease. Healers not only offer advice but can also provide psychological support to persons who suffer from the disease.

An obvious point that needs to be raised is that practice of traditional healing in its very nature deal with health issues. Traditional healers therefore find themselves in two paradigms, that of traditional culture and that of the legal health system. What does the right to adequate health care mean in this traditional setting?

The right to health care is only worth pursuing if the necessary instruments and government policies are used to further this goal. There are various international instruments, which deal with health issues and some even deal with indigenous practices. The core content of health care is those concerning health care, which is in line with the definition of primary health care. The second element is that concerning underlying condition for health. These are for example necessities such as education, food supply and water. Government has an obligation to fulfil the four elements required at international health standards. They are availability, accessibility, acceptability and quality. Under each of these governments have a mandate to perform and in my opinion perform as far as traditional health is concerned. Government has a further duty to respect, protect and fulfil basic rights, which would include promoting respect for, protecting and fulfilling its obligations in terms of legislation all dealing with traditional health.

Other than the international health standard, the Constitution of South Africa also recognises the protection of traditional health in certain provisions in the Bill of Rights. They are the right to human dignity; the right to privacy; the right to equality and non-discrimination; the right to freedom of conscience, religion, expression, thought, belief

and opinion; the right to freedom of trade, occupation and profession; the right to have the environment protected; and finally the right of to access health care services.

Traditional healing therefore not only receives international protection under the various instruments but at a local level it also receives protection under the Constitution. This is commendable. The legitimating and professionalisation of healers in South Africa should be used as a model for other countries that grapple with non-recognition of these healers.



CHAPTER 7 - CONCLUSION:

7.1 Traditional healers – a positive contribution?

The practice of traditional healing is a tradition rich in culture and heritage. It forms part of the final leg in the three-tiered structure of the African religion, God and the ancestors fulfilling the role at the first and second stage. Traditional healing has had a rigid existence since colonial days even though it has been part of African culture for so many centuries. This meant that traditional healers were not allowed to practice in certain instances. The government at that stage saw fit that the only way they could control the practice was to marginalise it by promulgating legislation. This legislation in most instances outlawed the practice of healing. However many years later the Traditional Health Practitioners Act of 2004 was promulgated to regulate this practice and to some extent grant it recognition.

Traditional healers under this new piece of legislation are allowed to practise the art of healing provided that they are registered with the Traditional Health Practitioners Council. The functions of this Council are many-fold but by the far the most important function is to ensure that traditional healers who wish to practice are registered with them. Apart from certain sections in the Act, the Act in its entirety has however not come into full operation yet and awaits presidential assent to become a binding statute. Nevertheless, the Act has brought traditional healing to a new level in the South African legal context. Traditional healing has come from a history of being outlawed; depending on whether one was practicing as a diviner, to being fully recognised. That is commendable. Even though traditional healers' cooperation in the fight against HIV/AIDS has become increasingly sought after, the THP Act prohibits traditional healers from professing to have a cure for HIV/AIDS or any other terminal illness. In fact this is a criminal offence under the THP Act and if found guilty is liable on a conviction to a fine or imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment. The Act is however not completely flawless. It does not mention any prescribed fee, which healers may charge, but merely states that when an inquiry is

instituted into whether a fee charged was fair, the Council then has the discretion to prescribe a fee they feel is just and equitable.

At an international level the stance of the World Health Organisation (WHO) is also commendable. It has for a long time encouraged countries to incorporate traditional healers into their health care programmes. The WHO has made recommendations on including traditional healers into primary health care (PHC) programmes. In this regard they have stated that countries should develop training programmes to facilitate the training and development of traditional healers so that they may assist in 'first-hand' health care. Many of the recommendation they have made are well suited to developing nations in the sense that training programmes are relatively inexpensive. In order for these training programmes to work effectively collaboration from western medical practitioners is important. This in my opinion is an obstacle in the progressiveness of health care systems. Many bio-medical practitioners do not accept the idea of incorporation of traditional healers into health care systems. Their opinions are based on the fact that traditional health is 'superstitious' in nature and rely heavily on the use of divination for which there is no 'scientific' basis. The only way in which this can be remedied is by educating people on the positive attributes of traditional healing and thus change attitudes towards a positive outcome. Where traditional healers have been incorporated into health care systems it has proven to be both beneficial to the healer and the bio-medical doctor not to mention advantageous to the community in which they practice.

The Southern African Development Community (SADC) has not been silent on the issue of healing either. They urge member states, of which South Africa is a member to tap into traditional healing and recognise this practice as being part of the national health care system. Article 20 of the Protocol on Health reads that member states shall endeavour to develop mechanisms to regulate the practice of traditional healing and for co-operation with traditional health practitioners and western medical practitioners. We therefore note that not only has traditional healing practices and incorporation been encouraged on an international level but so too on a national level.

Health and healing like other aspects such as religion and language, is a cultural system. Traditional healing in its very nature responds to the culture of the community in which it finds itself. This affects the way in which traditional health is practiced in the sense that traditional healers become aware of the needs of a particular community. This aspect is extremely beneficial in establishing a more involved health care system. Traditional healers are close to communities and have developed a relationship of trust with patients. They do not only offer remedial care but also offer psychological support. However some of the opposing arguments are that traditional health is deeply African and that there are practical aspects that limit its inclusion into health care systems. The former argument would imply that traditional healers often have a different approach to ailments and disease. They believe that 'bad people' cause illnesses. This diagnosis does not tie in with western medical concepts of illness. As for the latter argument it seems a practical difficulty to include traditional healers, as it is impossible to maintain the necessary checks and balances. Registration of traditional healers would prove difficult as one cannot prove under whom the respective healers have trained. In response to this argument I am of the opinion that the Traditional Health Practitioners Act is quite progressive in this regard. Not only does the THP Act require that all healers who wish to practice register with the registrar of the Traditional Health Practitioners Council but also mentions the pre-requisites for registration. The practical pre-requisites such as proof of South African citizenship, character references of people not related to the traditional healer, a prescribed registration fee, any other information the council deems fit and most importantly, proof of the applicant's qualifications are all necessary requirements for registration.

One has to acknowledge that traditional healers can make a positive contribution to other health care systems in general but also with regard to the HIV/AIDS pandemic. The WHO has for a long time recognised the positive role that traditional healers can play if assisting to fight the scourge of the disease. It has encouraged states to train traditional healers in HIV/AIDS issues so that they may act as counsellors to persons who have been affected by the disease. Traditional healers are closely connected to communities, which enable them to communicate more effectively with people from those communities. The

SADC had produced a document known as the Declaration on HIV/AIDS in which it summoned governments to appropriately merge traditional healers into the system of HIV/AIDS care. Traditional healers provide a valuable resource in this regard especially in the South African perspective where HIV/AIDS related deaths are increasing. The way forward would be to educate traditional healers on all aspects of HIV/AIDS including educating people on how the disease could be spread, encouraging proper condom usage, getting you tested and more importantly dismissing taboos which centres on the HIV/AIDS issue. Traditional healers have not been entirely innocent in this regard. It has come to light that traditional healers have not been sterilising their surgical utensils properly and have often used the same razor blade on their patients. They have also been accused of perpetuating that sex with a virgin would cure AIDS. Traditional healers have to be trained in both of these aspects so as to make HIV/AIDS care more effective.

Traditional healing is part of the health care system. Does this mean that citizens have a right to traditional health at all times?

Various international instruments exist to regulate the notion of health care. Health care is a basic socio-economic right and sets the conditions for exercising other rights such as education, access to food and shelter to name a few. The one cannot function without the other. Governments are required to maintain the health standard of the nation by complying with four basic requisites. They are availability, accessibility, acceptability and quality. Government is required to make sure that health is available, accessible, and acceptable and that the quality of health is an appropriate level. Other than this government has a duty to respect, protect and fulfil their obligation in terms of legislation dealing with health in general and more specifically y dealing with traditional health.

The Constitution of 1996 further entrenches the protection of traditional healing in the Bill of rights. They are the right to human dignity; the right to privacy; the right to equality and non-discrimination; the right to freedom of conscience, religion, expression, thought, belief and opinion; the right to freedom of trade, occupation and profession; the right to have the environment protected; and finally the right to access health care services. Traditional healers and patients should therefore treat each other with mutual

respect, they have a duty not to divulge any confidential information about the patient without their full consent, traditional health should not be discriminated against in any way, traditional healers have the right to practise their culture and belief freely provided that it does not conflict with public policy, they have the right to practice as traditional healers, they should encourage environmental conservation and more importantly the public have the right to access traditional healing if it is in their best interest. All these sections in some way protect the right to not only practice traditional healing but also the duty to ensure that traditional health care complies with the legal supremacy of the Constitution.

Legislation has been an instrument of oppression and is today an instrument of recognition and regulation. This has especially been the case for traditional healers who practiced in South Africa. The amount of traditional health practitioners far outnumbers the amount of western medical practitioners. Coupled with that, many people in rural areas prefer the medical assistance of a traditional healer as opposed to a western medical practitioner. It is in this fact that traditional healers find their solace. The reality is that traditional healing will continue to be a part of the African religion. Their numbers could work to the advantage of the health care system as incorporating them would lessen the burden placed on biomedicine especially in light of the HIV/AIDS epidemic. They are a resource that needs to be tapped. The government has accepted this and promulgated the THP Act. Traditional healers now have the right to practice their trade freely and are granted full legislative recognition. However, full legal recognition does not necessarily imply full medical recognition. There are still many obstacles obstructing the practice of traditional healing. Biomedicine and traditional healing are at loggerheads and may be so for a very long time. Attitudes need to change in this regard. Once we overcome this prejudice then only can traditional health be fully recognised in every aspect.

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