


Legal Governance of Traditional Health Practitioners in Plural Legal Systems: Indonesia and China

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Abstract

Introduction: This article examines the legal governance of traditional health practitioners within plural legal systems in Indonesia and China. Although traditional health practices function as living law rooted in customary knowledge, state regulation increasingly subjects them to licensing, standardization, and administrative control. This condition raises legal tension between customary norms and formal health law, particularly regarding professional recognition, legal authority, and protection of traditional knowledge within modern healthcare systems.

Purposes of the Research: The purpose of this study is to analyze and compare how Indonesia and China regulate traditional health practitioners within plural legal systems, focusing on licensing mechanisms, state recognition, and the position of traditional knowledge as living law under contemporary health governance.

Methods of the Research: This research employs normative legal research using a comparative law approach. The study applies statute and conceptual approaches to examine laws, regulations, and policy frameworks governing traditional health practitioners in Indonesia and China. Legal materials are analyzed qualitatively to identify governance models and normative gaps.

Results of the Research: The findings show that both Indonesia and China formally recognize traditional health practitioners but regulate them through state-centric licensing systems that marginalize customary governance. China integrates traditional practitioners into its national health system, while Indonesia maintains fragmented regulation with limited customary recognition. This study contributes novel insights by positioning traditional health practice as living law and proposing the need for sui generis governance models that reconcile legal pluralism with regulatory certainty.

Keywords: Legal Governance, Traditional Health, Plural Legal Systems

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INTRODUCTION

Traditional health practitioners play a significant role in national health systems in Indonesia and China, particularly in providing accessible and culturally rooted healthcare services.¹ In Indonesia, traditional health practices such as jamu, massage therapy, and herbal medicine are formally acknowledged within the national health framework and regulated through administrative licensing mechanisms.² Similarly, China integrates Traditional Chinese Medicine (TCM) into its public healthcare system, supported by state

¹ Ni Ketut Aryastami and Rofingatul Mubasyiroh, "Traditional Practices Influencing the Use of Maternal Health Care Services in Indonesia," *PLOS ONE* 16, no. 9 (2021): e0257032, <https://doi.org/10.1371/journal.pone.0257032>.

² Raden Maya Febriyanti et al., "Knowledge, Attitude, and Utilization of Traditional Medicine within the Plural Medical System in West Java, Indonesia," *BMC Complementary Medicine and Therapies* 24, no. 1 (2024): 64, <https://doi.org/10.1186/s12906-024-04368-7>.

institutions, formal education, and professional certification.³ Despite this recognition, the legal governance of traditional health practitioners in both countries remains predominantly state-centric and regulatory in nature.⁴

Existing legal frameworks largely emphasize licensing, standardization, and patient safety, while offering limited recognition of traditional knowledge as living law and collective customary heritage. Previous studies tend to approach traditional medicine regulation from public health or professionalization perspectives, overlooking the interaction between customary norms, legal pluralism, and modern regulatory systems. This article addresses this limitation by comparatively analyzing the legal governance of traditional health practitioners in Indonesia and China, with particular attention to how plural legal systems negotiate customary law, traditional knowledge, and state regulation. The study seeks to contribute to the development of a more integrative governance model that balances regulatory certainty with the recognition of traditional knowledge as a legitimate source of law.

LITERATURE REVIEW

A. Traditional Health Practitioners and Traditional Knowledge

Scholarly literature consistently recognizes traditional health practitioners as primary custodians of traditional knowledge developed through long-standing cultural practices, empirical experience, and community-based transmission. Traditional health knowledge is generally characterized by collective ownership, oral and experiential transfer across generations, and deep integration with local belief systems, cosmology, and social structures.⁵ Rather than being individual intellectual property, such knowledge functions as communal heritage governed by customary norms and social obligations. In Indonesia, traditional health practitioners including herbalists, traditional massage therapists, and other indigenous healers are closely linked to local wisdom (*Kearifan Lokal*) and Customary Law (Hukum Adat). Indonesian legal policy acknowledges this reality by recognizing traditional health practices as part of the national health system, while simultaneously subjecting practitioners to administrative regulation and licensing. However, this recognition remains largely functional and regulatory, with limited substantive acknowledgment of traditional knowledge as living law or collective customary rights. In China, traditional health practitioners operating within Traditional Chinese Medicine (TCM) are supported by a long history of state recognition, institutionalization, and formal education.⁶ Traditional knowledge related to acupuncture, herbal medicine, and therapeutic techniques is systematically codified and incorporated into national health governance.

Despite this strong institutional support, the governance of traditional health knowledge in China is predominantly centralized and state-driven, leaving minimal legal space for community-based customary norms or plural legal interpretations. Comparatively, both Indonesia and China demonstrate a tension between traditional knowledge as a living,

³ Lei Fang et al., "World Health Organization Survey on the Level of Integration of Traditional Chinese Medicine in Chinese Health System Rehabilitation Services," *Integrative Medicine Research* 12, no. 2 (2023): 100945, <https://doi.org/10.1016/j.imr.2023.100945>.

⁴ Weidong Lu, "Integrating Medical and Traditional Acupuncture Education in the United States: Enhancing Patient Care Through Combined Expertise," *Medical Acupuncture* 37, no. 2 (2025): 112–23, <https://doi.org/10.1089/acu.2024.0140>.

⁵ Anne Ouma, "Intergenerational Learning Processes of Traditional Medicinal Knowledge and Socio-Spatial Transformation Dynamics," *Frontiers in Sociology* 7 (July 2022): 661992, <https://doi.org/10.3389/fsoc.2022.661992>.

⁶ Wan-Ying Wang et al., "Current Policies and Measures on the Development of Traditional Chinese Medicine in China," *Pharmacological Research* 163 (January 2021): 105187, <https://doi.org/10.1016/j.phrs.2020.105187>.

community-based normative system and modern legal frameworks that prioritize standardization, professionalization, and regulatory control. Traditional health practitioners in both countries therefore operate within plural legal systems, navigating between customary norms, state health regulation, and modern professional standards.⁷ This condition highlights the need for legal governance models that not only regulate practice and ensure patient safety but also recognize traditional knowledge as a legitimate source of law and cultural authority.

B. Pluralism and Living Law in Health Governance

Legal pluralism theory emphasizes the coexistence of multiple normative orders within a single legal system, including state law, customary law, religious norms, and community-based rules.⁸ Within this framework, traditional health practices are widely understood to be governed by living law – unwritten norms that derive legitimacy from social acceptance, cultural continuity, and communal enforcement rather than formal legislation.⁹ Scholars of living law argue that compliance with such norms is maintained through trust, reputation, and shared belief systems, particularly in healthcare practices rooted in tradition. In Indonesia, the influence of living law in traditional health governance is implicitly recognized through constitutional and statutory frameworks. Article 18B paragraph (2) of the 1945 Constitution acknowledges the existence of customary law communities and their traditional rights, providing a normative foundation for legal pluralism. In the health sector, Law Number 17 of 2023 on Health formally recognizes traditional health services (*Pelayanan Kesehatan Tradisional*), which are further regulated through ministerial regulations governing traditional health practitioners and facilities.¹⁰ Although these regulations acknowledge traditional practices, governance remains predominantly administrative, emphasizing licensing, standardization, and supervision rather than the normative authority of customary law.

China similarly operates within a plural legal reality, although expressed differently. Traditional Chinese Medicine (TCM) is explicitly recognized under national legislation governing healthcare and traditional medicine.¹¹ The legal framework integrates TCM into the state health system through institutionalization, education, and professional certification. However, the governance model is highly centralized, with traditional practices regulated primarily through state law and administrative control. While traditional norms and cultural legitimacy continue to influence public trust and utilization of TCM, customary or community-based legal orders are largely subsumed under formal regulatory structures. Comparatively, both Indonesia and China demonstrate how living law continues to shape access, legitimacy, and patient trust in traditional healthcare, despite the dominance of state regulation.¹² Existing literature highlights that state law often

⁷ H. M. Chotib, "The Role of Traditional Leaders in Local Governance: A Case Study of Jambi Province, Indonesia," *Enigma in Cultural* 2, no. 2 (2024): 117–30, <https://doi.org/10.61996/cultural.v2i2.73>.

⁸ Fajjul Islam, "Legal Pluralism in South Asia: The Sustainable Role of Customary Law in Modern Legal Systems," *Journal of Legal Research and Polity* 2, no. 2 (2025): 67–88, <https://doi.org/10.64322/JLRP.2025.2206>.

⁹ Theresia N.A. Narwadan, "The Existence of Customary Law as a Living Law within Indonesia's Legal System: A Legal Pluralism Analysis," *Journal of Adat Recht* 2, no. 4 (2025): 28–38, <https://doi.org/10.62872/2rw71057>.

¹⁰ Rizki Aprido and Fatimah Fatimah, "The Resolution of Customary Community Land Rights Issues Based on Government Regulation No. 18 of 2021 and Its Relevance to the Constitution in Indonesia," *Jurnal EDUCATIO: Jurnal Pendidikan Indonesia* 9, no. 2 (2023): 893, <https://doi.org/10.29210/1202323279>.

¹¹ Hua Hua et al., "From Traditional Medicine to Modern Medicine: The Importance of TCM Regulatory Science (TCMRS) as an Emerging Discipline," *Chinese Medicine* 20, no. 1 (2025): 92, <https://doi.org/10.1186/s13020-025-01152-8>.

¹² Ahmad Dwi Nuryanto and Turdialiev Mukhammad Ali Polatjon Ogli, "Achieving National Health Insurance in Indonesia: Policies and Challenges," *Contrarius* 1, no. 2 (2024): 67–87, <https://doi.org/10.53955/contrarius.v1i2.208>.

marginalizes living law by treating it as cultural background rather than a normative system with regulatory authority.¹³ This marginalization risks weakening community-based governance mechanisms and reducing traditional health practitioners to mere subjects of administrative control. Therefore, effective health governance in plural legal systems requires a legal approach that accommodates living law alongside formal regulation, ensuring that customary norms remain a meaningful component of healthcare governance rather than symbolic recognition alone.

C. State Regulation of Traditional Health Practitioners

State regulation of traditional health practitioners in both Indonesia and China is primarily driven by public health objectives, particularly patient safety, quality control, and professional accountability.¹⁴ Contemporary legal scholarship notes that traditional health practices, once governed mainly by community norms and customary authority, are increasingly incorporated into formal regulatory systems through licensing, registration, and state supervision. In Indonesia, the regulation of traditional health practitioners is grounded in Law Number 17 of 2023 on Health, which explicitly recognizes traditional health services as part of the national health system.¹⁵ This recognition is operationalized through ministerial regulations governing traditional health practitioners, requiring registration (*Surat Tanda Registrasi Tenaga Kesehatan Tradisional*), licensing (*Surat Izin Praktik Tenaga Kesehatan Tradisional*), and compliance with defined service standards.¹⁶ These regulatory instruments aim to ensure legal certainty, protect patients, and prevent malpractice. However, scholars observe that such administrative formalization tends to prioritize technical and procedural compliance over the recognition of traditional knowledge as a community-based normative system. As a result, traditional health practitioners are increasingly positioned as regulated service providers rather than custodians of living law.

China presents a contrasting yet equally state-centric model. Traditional Chinese Medicine (TCM) is comprehensively regulated and institutionally integrated into the national healthcare system through dedicated legislation, national development plans, and professional accreditation frameworks. The Chinese regulatory approach emphasizes standardized education, certification, and state oversight, enabling TCM practitioners to operate within hospitals and public health institutions alongside biomedical professionals. While this model provides strong legal certainty and institutional legitimacy, academic critiques highlight that the centralized governance structure leaves limited room for customary or community-based regulation. Traditional health knowledge is largely transformed into codified, state-controlled medical expertise.

Comparatively, both Indonesia and China demonstrate regulatory convergence toward bureaucratic governance models that emphasize safety, standardization, and accountability. Although these frameworks contribute to public trust and professional

¹³ Hotmaria Hertawaty Sijabat and Gunawan Widjaja, "Historical Traces of Health Law: Tracing the Dynamics of Health Regulation Development Through Literature," *CBJIS: Cross-Border Journal of Islamic Studies* 6, no. 2 (2024): 245–52, <https://doi.org/10.37567/cbjis.v6i2.3338>.

¹⁴ Jackson Yumame, *Health Regulation Changes in Indonesia: Legal and Policy Review*, n.d.

¹⁵ Susi Eryani and Tony Richard Alexander Samosir, *The Impact of Health Law Reforms on Patient Rights and Medical Professional Accountability Worldwide*, n.d.

¹⁶ Juliana Juliana and I Gede Agus Kurniawan, "Pelaksanaan Peraturan Tentang Legalitas Para Pengobat Tradisional Komplementer Berdasarkan Undang-Undang Kesehatan No. 36 Tahun 2009," *JPI (Jurnal Penelitian Pendidikan Indonesia)* 10, no. 2 (2024): 298, <https://doi.org/10.29210/020243194>.

legitimacy, they also risk eroding the flexible, adaptive, and community-oriented nature of traditional health practices. Excessive bureaucratization may marginalize customary norms, reduce practitioner autonomy, and weaken the role of living law in healthcare governance.¹⁷ This tension underscores the need for regulatory approaches that balance state oversight with respect for traditional knowledge systems as socially embedded and legally meaningful practices within plural legal systems.

D. Sui Generis Protection of Traditional Knowledge

Academic discourse widely acknowledges the structural limitations of conventional intellectual property regimes in protecting traditional knowledge, particularly in the field of traditional health practices. Patent and copyright systems are designed to protect individual, novel, and time-limited creations, making them fundamentally incompatible with traditional health knowledge characterized by collective ownership, cumulative development, intergenerational transmission, and cultural embeddedness. As a result, many scholars argue that reliance on standard intellectual property law risks excluding traditional health practitioners and communities from meaningful legal protection.¹⁸ In response to these limitations, sui generis legal protection models have been proposed to accommodate the distinctive nature of traditional knowledge. Such models emphasize collective rights, community recognition, benefit-sharing mechanisms, and the preservation of cultural integrity. In Indonesia, discussions on sui generis protection of traditional knowledge are reflected in policy debates and legislative instruments addressing traditional knowledge and cultural expressions. However, existing legal frameworks remain fragmented, as protection mechanisms for traditional knowledge are largely separated from health regulation and practitioner governance. Traditional health practitioners are regulated primarily under health law, while traditional knowledge protection is addressed through intellectual property or cultural heritage frameworks, resulting in weak legal integration.

China similarly faces challenges in aligning traditional knowledge protection with health governance.¹⁹ Although Traditional Chinese Medicine is institutionally protected and promoted, the legal approach predominantly relies on codification, state ownership, and administrative control rather than community-based or sui generis rights.²⁰ Traditional health knowledge is transformed into standardized medical knowledge, leaving limited legal recognition for collective customary ownership or benefit-sharing arrangements. Scholars note that this approach prioritizes national interests and innovation policy over the protection of traditional knowledge as living law.

Comparatively, both Indonesia and China demonstrate that the absence of integrated sui generis protection within health governance frameworks leads to fragmented and incomplete legal protection. Sui generis models are often discussed normatively, without being operationalized within licensing systems, practitioner regulation, or healthcare delivery structures. This fragmentation fails to address the practical realities of traditional health practice, where knowledge, practitioner identity, and community norms are

¹⁷ Hetty Panggabean et al., *Tinjauan Hukum Pengobatan Tradisional Komplementer Tenaga Kesehatan Di Fasilitas Pelayanan Kesehatan*, n.d.

¹⁸ Karen Walsh et al., "Intellectual Property Rights and Access in Crisis," *IIC - International Review of Intellectual Property and Competition Law* 52, no. 4 (2021): 379–416, <https://doi.org/10.1007/s40319-021-01041-1>.

¹⁹ Nan Xia, "Challenges in Developing the Chinese Traditional Medical Knowledge Databases in China," *Queen Mary Journal of Intellectual Property* 14, no. 2 (2024): 143–70, <https://doi.org/10.4337/qmjip.2024.02.02>.

²⁰ Nan Xia, "Intellectual Property Protection for Traditional Medical Knowledge in China's Context: A Round Peg in a Square Hole?," *Medical Law Review* 31, no. 3 (2023): 358–90, <https://doi.org/10.1093/medlaw/fwad006>.

inseparable.²¹ Therefore, effective legal governance requires the integration of sui generis protection mechanisms into health regulation, ensuring that traditional health practitioners are recognized not only as regulated service providers but also as legitimate holders and transmitters of traditional knowledge within plural legal systems.

E. Research Gap and Conceptual Contribution

Despite extensive literature on traditional knowledge, legal pluralism, and health regulation, comparative legal studies examining the governance of traditional health practitioners within plural legal systems remain limited. Existing research tends to separate discussions on customary law, professional licensing, and intellectual property protection, without offering an integrated governance perspective. This study fills the gap by comparatively analyzing Indonesia and China, positioning traditional health practitioners at the intersection of living law, state regulation, and sui generis protection. By doing so, the article contributes a holistic legal governance framework that bridges customary norms and modern regulatory systems.

METHODS OF THE RESEARCH

This study employs normative legal research, as the analysis focuses on legal norms governing the governance of traditional health practitioners within plural legal systems. The research applies a comparative law approach by examining Indonesia and China, combined with a statute approach to analyze relevant legislation and regulatory frameworks, and a conceptual approach to explore theories of legal pluralism, living law, and traditional knowledge protection. Legal materials are collected through documentary research, including laws, policy documents, and scholarly literature.²² The analysis is conducted using qualitative legal analysis to identify regulatory patterns, normative gaps, and governance models.

RESULTS AND DISCUSSION

This section presents the findings on the legal governance of traditional health practitioners in Indonesia and China, focusing on licensing, professional recognition, and the protection of traditional knowledge. The analysis evaluates how state law interacts with customary norms and living law, highlighting differences and similarities between the two countries' approaches. The discussion is structured around three key elements: recognition and licensing of practitioners, institutional frameworks, and the integration of traditional knowledge into legal governance.²³

Table 1. Comparative Legal Frameworks for Traditional Health Practitioners

Aspect	Indonesia	China
Legal Basis	Permenkes Yankestrad Komplementer 2020 , UU Kesehatan, STRTKT & SIPTKT	Law on Traditional Chinese Medicine 2017 , Licensing Regulations, Professional Certification

²¹ Achmad Hariri and Basuki Babussalam, "Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia," *Walisongo Law Review (Walrev)* 6, no. 2 (2024): 146-70, <https://doi.org/10.21580/walrev.2024.6.2.25566>.

²² Achmad Irwan Hamzani et al., "Legal Research Method: Theoretical and Implementative Review," *International Journal of Membrane Science and Technology* 10, no. 2 (2023): 3610-19, <https://doi.org/10.15379/ijmst.v10i2.3191>.

²³ Rosemaria Johnson, *Safeguarding Traditional Knowledge: Harmonizing Legal Framework*, 5, no. 1 (2025).

Aspect	Indonesia	China
Practitioner Recognition	Formal licensing via STRTKT (Registration) and SIPTKT (Practice License); recognizes community-based practices ²⁴	National certification through TCM colleges and state registration; full integration into healthcare system
Practice Setting	Griya Sehat: community clinics, public or private; must have operational permit issued by district/city health office	TCM hospitals, clinics, and community centers; state supervision mandatory ²⁵
Licensing Scope	Individual practitioner licensing suffices for independent practice; operational permit tied to clinic ownership	Centralized licensing for hospitals and individual practitioners; separate practitioner and institutional approvals
Integration of Customary Law	Limited formal recognition; customary practices inform practice but not embedded in law	Minimal legal space for customary or community norms; TCM law focuses on standardized practice
Aspect	Indonesia	China

Source: Adapted from Indonesian Ministry of Health Regulations (2020) and Chinese Law on Traditional Chinese Medicine (2017).

A. Recognition and Licensing of Practitioners

The findings indicate that both Indonesia and China formally recognize traditional health practitioners; however, such recognition is operationalized through markedly different legal mechanisms that reflect distinct governance models. In Indonesia, recognition is primarily implemented through an individual-based licensing system, namely the *Surat Tanda Registrasi Tenaga Kesehatan Tradisional* (STRTKT) and *Surat Izin Praktik Tenaga Kesehatan Tradisional* (SIPTKT).²⁶ These instruments grant legal authority to practitioners to provide traditional health services, while *Griya Sehat* are subject to separate operational permits regulating facilities and institutional ownership. This regulatory structure demonstrates a hybrid approach: traditional health practices are formally regulated by the state, yet many community-based and customary practices continue to operate informally within local social norms. This Indonesian model reflects a partial accommodation of living law. While state law provides administrative recognition and supervision, it does not fully incorporate customary authority or collective recognition of traditional knowledge holders. As a result, traditional health practitioners navigate a dual normative space—complying with formal licensing requirements while simultaneously maintaining legitimacy through community trust and customary norms. In contrast, China adopts a highly centralized and institutionalized regulatory framework for traditional health practitioners, particularly

²⁴ Panggabean et al., *Tinjauan Hukum Pengobatan Tradisional Komplementer Tenaga Kesehatan Di Fasilitas Pelayanan Kesehatan*.

²⁵ Man-ci Zhou et al., "Evaluation of Health Resources and Service Utilization in Traditional Chinese Medicine Hospitals in China Based on WHO's Comprehensive Evaluation Model," *Health Policy and Technology* 14, no. 3 (2025): 100998, <https://doi.org/10.1016/j.hlpt.2025.100998>.

²⁶ Suminah Tan and Wetmen Sinaga, "Tinjauan Yuridis Tentang Kepastian Hukum Terhadap Tenaga Kesehatan Tradisional Akupunktur Di Negara Indonesia," *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 1 (2023): 1-9, <https://doi.org/10.55809/tora.v9i1.187>.

within the system of Traditional Chinese Medicine (TCM).²⁷ Practitioners are required to undergo state-certified education, standardized training, and professional registration before being authorized to practice.²⁸ This model emphasizes uniform standards, scientific validation, and integration into the national healthcare system. Although effective in ensuring regulatory certainty and professional accountability, it significantly limits the role of customary norms and community-based validation mechanisms. Comparatively, the two systems illustrate a fundamental tension between state-centered licensing and community-based traditional practice. Indonesia allows greater normative plurality in practice but lacks strong legal integration of customary authority, while China achieves regulatory coherence at the expense of legal pluralism. This comparison highlights how licensing regimes can function either as instruments of inclusion or as mechanisms that marginalize living law, depending on how they engage with traditional knowledge and community governance structures.

B. Institutional Frameworks and Oversight

The findings indicate that China's institutional framework for traditional health practitioners is grounded in specific legal instruments that formalize the governance of Traditional Chinese Medicine (TCM).²⁹ The most fundamental legal basis is the Law of the People's Republic of China on Traditional Chinese Medicine (TCM Law), promulgated on 25 December 2016 and entering into force on 1 July 2017, which provides a nationwide statutory framework for the development, regulation, and institutional integration of TCM within the healthcare system. Under this law, all TCM practitioners are required to qualify through standardized education, pass professional examinations, and obtain appropriate licensure before engaging in practice, reinforcing regulatory coherence and professional accountability. In addition to the TCM Law, implementing regulations such as the Regulations of the People's Republic of China on Traditional Chinese Medicine (2014) require that TCM institutions must meet prescribed standards and obtain licenses before providing services. Article 11 explicitly mandates that a practitioner of traditional Chinese medicine must pass a qualification examination and obtain a registered doctor's license before lawful practice, underscoring the formalized professionalization of traditional health practitioners.

China's centralized institutional oversight is further reflected in policy reforms intended to strengthen licensure and clinic management. For instance, a 2017 reform package expanded provisions for TCM practitioner examinations and clinic registration, allowing practitioners to open clinics after legal registration with local TCM authorities, while supervisory departments ensure compliance with address, service scope, and equipment standards within specified timelines. These reforms contribute to significant institutional control and standardization, enabling a uniform nationwide regulatory regime that integrates TCM into the broader health system.

In contrast, Indonesia operates a more decentralized oversight framework where operational permits for traditional health facilities (*Griya Sehat*) are issued by district/city

²⁷ Chao Wu et al., "An Early Assessment of the County Medical Community Reform in China: A Case Study of Zhejiang Province," *Journal of Chinese Governance* 6, no. 4 (2021): 463–85, <https://doi.org/10.1080/23812346.2021.1978722>.

²⁸ Wu et al., "An Early Assessment of the County Medical Community Reform in China."

²⁹ Ya-nan Yu et al., "From Concept to Practice: Evolution and Implementation of Data Monitoring Committees in Traditional Chinese Medicine Clinical Research," *Evidence-Based Chinese Medicine and Technology Assessment* 1, no. 3 (2025): 9570023, <https://doi.org/10.26599/eCMTA.2025.9570023>.

Health Offices in accordance with Law Number 17 of 2023 on Health and related Ministry of Health regulations. While the Ministry provides national policy direction, local authorities play a prominent role in licensing and supervision, resulting in varying enforcement and oversight capacity across regions. This decentralized model allows localized adaptation but tends to produce fragmented governance. When viewed through a legal pluralism lens, China's centralized, statute-based regulatory architecture affords clear institutional authority and uniform oversight but limits flexibility for community-based norms. Indonesia's model, by contrast, permits a degree of pluralistic interaction between state regulation and local customary practices, yet it suffers from coordination issues and inconsistent enforcement. The juxtaposition of these models illustrates the trade-off between regulatory certainty and pluralism in the governance of traditional health practitioners within plural legal systems.

C. Protection of Traditional Knowledge and Sui Generis Approaches

The findings indicate that neither Indonesia nor China currently possesses a comprehensive sui generis legal framework that fully protects traditional knowledge embedded in traditional healthcare practices.³⁰ In both jurisdictions, traditional knowledge is recognized functionally through regulation of practitioners and services—rather than substantively as a form of collective customary right or living law. In Indonesia, traditional health knowledge continues to inform daily medical practice within communities and remains deeply embedded in local customs and intergenerational transmission.³¹ Constitutional recognition of customary law communities provides a normative foundation for protecting traditional knowledge; however, in practice, such knowledge is legally subordinated to state-centered health regulation. Existing health laws and ministerial regulations prioritize practitioner licensing, service standards, and patient safety, while mechanisms for recognizing collective ownership, customary authority, or benefit-sharing related to traditional knowledge remain underdeveloped. As a result, traditional knowledge is treated as ancillary to regulated practice rather than as an autonomous normative system deserving distinct legal protection. In China, the protection of traditional knowledge related to healthcare is closely linked to the governance of Traditional Chinese Medicine (TCM).³² The Law of the People's Republic of China on Traditional Chinese Medicine (2016) emphasizes standardization, professional education, certification, and institutional integration of TCM within the national health system. While this approach effectively preserves and promotes traditional medical knowledge at the national level, it does so through codification and state control. Consequently, community-held knowledge, informal transmission, and customary governance mechanisms receive minimal legal recognition. Traditional knowledge is transformed into formalized medical expertise, limiting acknowledgment of its collective and customary dimensions.³³

³⁰ Dian Nurfitri et al., "Protecting Genetic Resources and Traditional Knowledge in Indigenous Communities and Government through Inclusive Moral Rights," *Scholars International Journal of Law, Crime and Justice* 8, no. 07 (2025): 160-67, <https://doi.org/10.36348/sijlcrj.2025.v08i07.002>.

³¹ Made Diah Lestari et al., "The Role of Local Knowledge in Multigenerational Caregiving for Older People," *Journal of Intergenerational Relationships* 21, no. 3 (2023): 339-59, <https://doi.org/10.1080/15350770.2022.2059606>.

³² Huajian Zhao et al., "The Influencing Role of Cultural Values on Attitudes of the Chinese Public Towards Traditional Chinese Medicine (TCM) for the Control of COVID-19," *Patient Preference and Adherence* Volume 17 (December 2023): 3589-605, <https://doi.org/10.2147/PPA.S443713>.

³³ Michael Ashworth and Emilie Cloatre, "Enacting a Depoliticised Alterity: Law and Traditional Medicine at the World Health Organization," *International Journal of Law in Context* 18, no. 4 (2022): 476-98, <https://doi.org/10.1017/S1744552322000143>.

Comparatively, both systems demonstrate a reliance on administrative and professional regulatory frameworks rather than sui generis protection tailored to the unique characteristics of traditional knowledge. Legal scholarship suggests that sui generis mechanisms could bridge this gap by formally recognizing collective knowledge holders, ensuring fair and equitable benefit-sharing, and integrating customary norms into modern health governance structures.³⁴ Such an approach would allow traditional health practitioners to be recognized not only as licensed service providers but also as legitimate custodians of traditional knowledge within plural legal systems. The absence of integrated sui generis protection in both Indonesia and China highlights a critical governance gap. Without legal instruments that connect traditional knowledge protection with practitioner regulation and health governance, traditional knowledge remains vulnerable to marginalization, misappropriation, and loss of its normative authority.³⁵ This finding reinforces the need for a holistic legal governance model that harmonizes state regulation, legal pluralism, and sui generis protection to ensure the sustainability of traditional health practices.

Table 2: Comparative Sui Generis Protection and Integration of Traditional Knowledge (2025)

Aspect	Indonesia (2025)	China (2025)
Legal Recognition of Knowledge	Indirectly recognized through licensing of traditional health practitioners (STRTKT & SIPTKT) under health law; traditional knowledge not legally established as collective rights ³⁶	Traditional Chinese Medicine (TCM) governed by national law emphasizing standard education and certification; community knowledge not legally recognized as collective customary law
Community Ownership	Customary practices inform practice but are not recognized as collective legal rights; traditional knowledge integrated informally into practice but not explicitly protected by law	Community-held traditional knowledge subordinated to centralized regulation; TCM knowledge treated as formalized medical expertise under state control
Sui Generis Approach	Not yet implemented; academic proposals exist for sui generis legal protection	Not implemented; legal protection mainly through standardization frameworks and patent/IP regimes
Integration with Health Law	Partial integration: traditional health practices recognized in licensing systems; living law secondary to formal state regulation	High integration: TCM widely integrated into national healthcare system via Law on Traditional Chinese Medicine (2016) and implementing regulations; however, community norms not legally institutionalized

³⁴ Tyler D Jessen et al., "Contributions of Indigenous Knowledge to Ecological and Evolutionary Understanding," *Frontiers in Ecology and the Environment* 20, no. 2 (2022): 93–101, <https://doi.org/10.1002/fee.2435>.

³⁵ Hari Sutra Disemadi and Lu Sudirman, "Unleashing Indonesia's Traditional Knowledge: Navigating Legal Challenges in a Changing Landscape," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (2023): 33–46, <https://doi.org/10.30631/alrisalah.v23i1.1334>.

³⁶ Romlah. Gautama. Yeni Vitrianingsih, Lina Agustina, Fayola Issalillah, Elly Christanty, "The Implementation of Regulatory Frameworks And Legal Protection Challenges For Consumers In Traditional Medicine Practices In Indonesia," *International Journal of Service Science, Management, Engineering, and Technology*, 2024.

Aspect	Indonesia (2025)	China (2025)
Number of Traditional Health Practitioners	558 traditionally formally registered in Indonesia as part of the health workforce (2025)	>1,000,000 Traditional Chinese Medicine personnel expected by 2025, integrated broadly into healthcare institutions ³⁷

Table 2 Source: Data on Indonesia health workforce including traditional health practitioners (Kemenkes/BPS, 2025), National Administration of Traditional Chinese Medicine plan projecting TCM personnel figures by 2025.

CONCLUSION

This study concludes that the legal governance of traditional health practitioners in Indonesia and China remains predominantly state-centered, with regulatory frameworks prioritizing licensing, administrative control, and public health supervision over the substantive recognition of traditional knowledge as living law. Indonesia demonstrates a more pluralistic orientation through the acknowledgment of community-based practices and decentralized licensing mechanisms; however, regulatory fragmentation and the absence of a dedicated *sui generis* framework continue to limit effective legal protection of collective traditional knowledge. China, by contrast, provides strong regulatory certainty through centralized integration of traditional medicine within the national health system, yet offers minimal legal accommodation for customary norms and communal knowledge ownership. These findings indicate the practical need for an integrated governance model that reconciles legal pluralism with regulatory certainty by embedding *sui generis* protection of traditional knowledge within practitioner licensing and health governance systems. Such an approach would enhance legal certainty, safeguard cultural sustainability, and support fair benefit-sharing for traditional knowledge holders.

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