



# Frameworks for Intellectual Property Protection of Traditional Knowledge in Tanzania

**African Technology Policy Studies Network**  
**TECHNOPOLICY BRIEF | No. 41**



# **Frameworks for Intellectual Property Protection of Traditional Knowledge in Tanzania**

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**This paper should be cited as:**

African Technology Policy Studies, ATPS 2013: Frameworks for Intellectual Property Protection of Traditional Knowledge in Tanzania, [Georges S. Shemdoe, Loy Mhando], ATPS Technopolicy Brief No. 41

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

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ISBN: 978-9966-030-51-1



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# Acknowledgement

This paper was produced as part of the implementation of the ATPS phase VI Strategic Plan, 2008-2012 funded by ATPS Donors including the Ministerie van Buitenlandse Zaken (DGIS) the Netherlands, amongst others. The authors hereby thank the ATPS for the financial and technical support during the implementation of the Intellectual Property Program. The authors particularly thank Prof. Kevin Urama, the Executive Director of the ATPS for his visionary leadership as programme director; Mr. Joseph Wekundah the Executive Director of the Biotechnology Trust Africa (BTA) and Prof. Moni Wekesa (Mount Kenya University) who were coordinators of the programme and Dr. Nicholas Ozor, Senior Research Officer (ATPS) and all the ATPS team members for their technical support during programme implementation.

# 1. Introduction

Tanzania, just like many other developing countries, lacks frameworks for intellectual property protection of traditional knowledge. This policy brief discusses the status of protection of traditional knowledge in Tanzania and recommends policy options to ensure that traditional knowledge gets protection in order to change the situation through which Tanzania losses and will continue to lose opportunities in the cause of utilization, transfer and transformation of Traditional Knowledge based technologies.

Traditional knowledge (TK) has played and still plays an important role in the lives of many people globally. It has particularly been essential for food security and health care for millions of people in developing countries. Up to 80% of the population in these countries depends on traditional medicines in meeting their healthcare demands (CIPR, 2002). One of the problems around TK is how it can be protected as a product of intellect. The issue of protection of traditional knowledge has just arisen in the past two decades from the pressures of many developing countries, holders of traditional knowledge and campaigning organizations. This was due to a number of cases on the appropriation of knowledge and genetic resources of farming and indigenous communities by individuals or institutions seeking monopoly control (bio-piracy) (CIPR, 2002). A study was conducted in Tanzania to explore the existing mechanisms of protection among the communities in Lushoto and Handeni districts. These communities are well known for their famous traditional medicines. The major objective of the study was to build a body of knowledge in the area of protection of traditional knowledge in Tanzania. Specifically, the study examined the existing legal and policy frameworks relevant to protection of TK in Tanzania and previous studies on protection of traditional knowledge. The study further gathered existing protection mechanisms and mechanisms for transfer of knowledge to others among the communities; particularly, of the traditional healers in two districts of Tanga region. Furthermore, the study synthesized the mechanisms of indigenous protection of TK and has proposed a strategy to adopt them in the system of protection of TK. In this policy brief the above mentioned issues on protection of TK are discussed.

## Legal Frameworks

Tanzania has no comprehensive and appropriate mechanism for protection of rights arising out of use and or exploitation of Traditional Knowledge. The main legislation which could have provisions on protection of TK include: The Alternative and Traditional Medicines Act; Foods, Drugs and Cosmetics Act; Tanzania Patent Act; Trade and Service Marks Act; Copyrights and Neighbouring Rights Act; and African Regional Intellectual Property (ARIPO) Instrument on the Protection of TK and Expressions of Folklore (the Swakopmund Protocol). Save for the Swakopmund Protocol, the current legal framework does not provide for protection of TK.

## Policy Frameworks

The main Policies that would have provisions for the proper protection of Traditional Knowledge include: National Health Policy; Science, Technology and Innovation (STI) Policy (draft); Forest Policy; Agricultural Policy; Environmental Management Policy; and

Trade policy. These policies were analyzed to find out whether they have policy statements concerning protection of traditional knowledge.

In the analysis, it emerged that the National Healthy Policy of 2007 which has a policy statement of working together with the traditional healers, traditional nurses and recognizes the importance of both traditional and alternative medicines as the only one stating issues relevant to TK.

## **Utilizing services of traditional healers**

The study revealed that traditional medical services are being used by most people particularly in the rural settings (98%, N=229) though they have ranked it as second choice in their preference (72.1%, N=176). The Commission on Intellectual Property Rights (CIPR) (2002) has reported that up to 80% of the population in the developing countries depends on traditional medicines in meeting their health care demand.

## **Awareness on TK related legislation**

Investigation was conducted to test the level of awareness of the traditional healers. This is a question to which most of the traditional healers did not respond (61%, N=122). It is an indication of the lack of awareness of the laws on traditional knowledge. Of the remaining 39% (N=78) who responded, the results indicate that most of the healers are aware of the traditional and alternative Medicines Control Act (64%, N=50). This is an act which promotes control and regulation of traditional medicine and alternative medicines and regulates the conduct of practitioners and registration of practitioners. Registration of the traditional healers provides them with recognition. It is logical that many had interest in obtaining some information about this act.

## **Mechanisms of Indigenous Protection of TK**

The identified indigenous protection of traditional knowledge is through secrecy and training of children as a way of protecting their knowledge. Documenting of traditional medicines and the diseases the medicines cure was also identified as a mechanism for protection. But also the documentation should be kept secret by the beholder of that knowledge.

## 2. Conclusion

Protection of traditional knowledge is yet an issue for further debate. This study revealed that protection mechanisms among the community is mainly secrecy, which cannot be recommended as a means of protecting the TK. Leakage of the secrets could lead to no protection. As TK is not documented, there is a danger of losing this knowledge. The service of traditional healers is required and has got its contribution to the health care of the society. Few traditional healers are aware of the legislation concerned with the conventional intellectual property protection mechanism. There is no policy addressing relevant issues of TK except the National Healthy Policy of 2007 which has a policy statement of working together with the traditional healers, traditional nurses and is recognizing the importance of both traditional and alternative medicines. The current legal framework do not provide for protection of TK.

## 3. Recommendations

### **Establishing a Legal frame work for protection of TK**

It is recommended that Tanzania needs a comprehensive legal mechanism for the protection of Traditional Knowledge transfer and transformation of Traditional Knowledge based technologies. An instrument could be developed based on the ARIPO Instrument on the Protection of Traditional Knowledge and Expressions of Folklore.

### **Emphasizing on the Documentation of TK**

It is recommended that it is very necessary to take purposeful efforts to document traditional knowledge as it is in the danger of being extinct. Database such as that of ESRF should be promoted to ensure that the TK is documented.

### **Need to Establish a Traditional Knowledge Policy**

Tanzania should establish a TK policy that encourage and provide guidelines on the innovation, conservation and preservation of TK. The policy is expected to address among other things: Government appreciation of TK; Political commitment on TK; Use of TK; Statement on Protection of TK; Preservation of TK; and Distribution of benefits accrued from TK.

### **Outreach Programme**

From the study it is established that the traditional healers are not aware of IPR issues especially on the protection of their traditional knowledge. Therefore, there is a need to create awareness on IPR issues as well as on benefit sharing. This could be done through establishing an outreach programme for creating this awareness. This will also



include creation of knowledgeable and skilled Human Resource and the public in general on IPR. The programme will have a training and awareness creation on IP components and benefit sharing. The overall goal of the outreach programme is to inculcate a culture of innovativeness, creativity, protection and exploitation of TK. Among the proposed methods are; to make use of: mass media campaigns, booklets, banners, radio & TV programmes, competitions, training and workshops, etc.

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ISBN: 978-9966-030-50-4