

# **The Legislative and regulatory framework governing Traditional and Alternative Medicine Practice in the Gambia: A Commentary**

## **ABSTRACT**

Traditional and alternative medicine practitioners have an important role to play in the Gambian Healthcare sector, yet they have been sidelined.

I believe that the nature of the Gambian Healthcare sector stands to benefit more if practitioners are regulated effectively. The healthcare setup in the country is inadequate in caring for all the medical needs of the population. I was amazed to read about how a ferry transporting people and an ambulance carrying a patient to Senegal got stuck at sea for over 10 hours.

The resultant effect is that the patient died on the Ferry. If Pluralist medicine is promoted and integrated into the Gambian healthcare system; I believe that more lives will be preserved and better quality of care will be appreciated.

But these can only be achieved with legislation and effective regulation of the practitioners. The sad thing is that there is a healthcare legislation in the Gambia but none appears to have an effect to regulate the practitioners. I explore them in this legal commentary.

**Keywords:** Legislation, regulation, The Gambia, Traditional and Alternative Medicine, Healthcare system.

## **INTRODUCTION**

Traditional and Alternative Medicine is an important aspect of the healthcare team but we tend to underestimate it. Some have the notion that practitioners or advocates of traditional and alternative medicines are only interested in making money from poor patients.

Others also believe that these are some kind of uneducated bigots. These and many other perceptions about the industry with lack of government support affect the image of the profession. This notwithstanding, the popularity of these remedies has soiled in recent times post covid-19.

Those who are shifting towards these remedies are doing that as a result of frustration with the side effect of mainstream medicine and inadequate facilities and personnel [1, 2].

However, from a purely legal and regulatory standpoint, there seems to be no framework in the country to promote, regulate, and standardize traditional and alternative medicines practice.

This commentary examines the legal and regulatory framework of traditional and alternative medicine control in the Gambia.

## **Methods**

Several pieces of legislation regulate the Gambian Healthcare sector, including the Medical and Dental Practitioners Act, CAP. 37.01; Nurses and Midwives Act; CAP. 38.01; Medical Services Act; CAP. 39.01; Medicines Act; CAP. 40.01; Medicines and Related Products, 2014. In this work, I explore them by reviewing their effect on the legal and regulatory framework governing traditional and alternative medicine practice in the Gambia.

## **Findings**

### **Any knowledge of the Legal Frame Work in the Gambia?**

From a purely legal and regulatory standpoint, there seems to be no framework in the country. Here are the reasons:

The Medical and Dental Practitioners Act [3] object is to make provision for the establishment of a Medical and Dental Council, for the Registration of Medical and Dental Practitioners, for the discipline of persons registered under the Act, and for connected matters.

Section 2 of the Act [3] defines a 'Medical Practitioner' as '*a person qualified to practice the profession of medicine and is registered in accordance with the provisions of this Act*'.

Similarly, a 'Dental Practitioner', under the Medical and Dental Practitioners Act, means '*a person who is qualified to practice the profession of dentistry and is registered in accordance with the provisions of this Act*'.

The most important section that proves that the Act does not regulate traditional, complementary, and alternative medicine practice is enshrined in section 41(1) of the Medical and Dental Practitioners Act [3]. It states that: '*The provisions of this Act do not apply to a person who is recognized by the community in which he or she lives and practices as a person who practices a customary system of therapeutics*'.

Any person recognized by the community who practices a customary system of therapy is regarded as a traditional healer. Therapeutics are treatments used to alleviate or prevent a particular disease. Customary systems of therapeutics consist of diverse traditional practices, herbal medicine, complementary, as well as other alternative therapeutics such as Ayurveda, homeopathy, naturopathy, and many more.

African traditional medicine practices are diverse and are engraved in the customs of the people who live here. The customs of the people are recognized by the Constitution. In the Gambia, Section 7(e) of the Constitution of the Republic emphasizes customary law as part of the laws of the Gambia. Customary law is concerned with members of the communities to whom it applies. In this regard, the customs of the people in the communities also include the practice of traditional medicine. Hence, the practice of traditional medicine could be argued to be a constitutional right based on the customs and common law recognition as part of the laws of the Gambia [4].

Furthermore, Section 31[4] of the Constitution grants the right to culture promotion. It states that every person shall be entitled to enjoy, practice, profess, maintain, and promote any culture, language, tradition, or religion, subject to the terms of this constitution and to the condition that the rights protected by this section do not impinge on the rights and freedoms of others or the national interest, especially on the interest of national unity. The practice of traditional medicine is a way of life for the people of Gambia and it could be argued that it is part of their culture.

Section 2 of the Interpretation [ 5 ] section of the Evidence Act 1994 of the Gambia defines customs as a rule which, in a particular area, has, through long usage, obtained the force of law. Section 13 [5 ] of this act further emphasizes the admissibility of customs as evidence in a Court of competent jurisdiction in the Gambia. It states that a custom may be adopted as part of the law governing a particular set of circumstances if it can be proved to exist by evidence.

However, Section 41(2) of the Medical and Dental Practitioners Act highlights that the provision of subsection 1 of this section does not authorize any person to perform any customary system of therapy which is dangerous to life or health. This implies that the Medical and Dental Practitioners Act provides no grounds to regulate customary therapeutics and gives no leeway for traditional healers to engage in any practices that will endanger the public[ 3 ].

Also the Nurses and Midwives Act CAP. 38.01, Section 27 gives recognition to Traditional birth attendants. It states that the 'Council' in the Nurses and Midwives Act may train and recognize a person as a traditional birth attendant who shall perform such duties as the Council may prescribe. Hence, traditional birth attendants can make themselves available to be accepted by the council[6 ].

On the other hand, the Medical Services Act CAP. 39.01, Section 2 defines a 'health facility' "*as a Government health Centre, policy clinic, dispensary, or any other health facility belonging to the government and not forming part of, or attached to a hospital*". It further emphasizes that 'Private Health' institution means "*any hospital, polyclinic, dispensary or any other health facility not owned by the government*" [7].

## **Conclusion/Recommendations**

With regards to professional registration, there is no specific law that regulates the practitioners and provides recognition for them in the primary healthcare team in the Gambia. This is evident in the Medicines and Related Products Act, 2014. Section 2 of the interpretation defines "health practitioner" to include *a nurse, midwife, physician assistant, and any other person approved by the Agency*[ 8].

The phrase "*any other person approved by the Agency*" is ambiguous [ 8 ]. Probably, the Agency is also waiting for specific legislation on traditional and alternative medicine in the Gambia to regulate and recognized the practitioners officially into the healthcare system before taking further action to recognize them.

Also, Section 41(2) [ 3 ] of the Dental and Medical Practitioners Act notes that besides the prohibition of any customary system of therapy which is dangerous to life or health, the Act explicitly does not regulate traditional, complementary, and alternative medicine practices professionals.

Finally, sections 41(1) and 41(2) [ 3 ] of the same Act, in combination, mean that people who are recognized by communities as a practitioner can practice so long as they are not dangerous to life and health.

I, therefore call on the policymakers to facilitate the legislative framework to regulate the practitioners of traditional and alternative medicine in the Gambia.

## References

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