

Reorganization of Traditional Medicine Regulation Within the National Health System from A Legal Pluralism Perspective to Address Disharmonization of Laws and Regulations

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ABSTRACT

This study aims to analyze and formulate the restructuring of traditional medicine regulation within the national health system using a legal pluralism perspective to address the disharmonization of laws and regulations. This effort is undertaken to achieve legal certainty, public protection, and fair recognition of traditional practices. The research method employed is normative juridical, focusing on the analysis of legal norms, principles, and rules through statutory, theoretical, and doctrinal approaches. Data were collected through a literature review of primary, secondary, and tertiary legal materials, which were then analyzed qualitatively using legal interpretation and deductive reasoning. The regulation of traditional medicine currently has a strong foundation through Law Number 17 of 2023 on Health; however, significant normative disharmonization still exists. Regulatory conflicts are evident in the potential criminalization under the Criminal Code (KUHP) of non-medical practices deemed misleading, while the Health Law provides recognition of such practices. Formal standards established by the government tend to follow a modern medical paradigm, making them difficult for traditional practitioners—who rely on empirical experience and local wisdom—to fulfill. Protection of traditional knowledge as a collective right of indigenous communities has also not been adequately regulated within the national legal framework. An ideal regulatory restructuring requires synchronization among regulations and the adoption of legal pluralism principles so that the state legal system can accommodate customary law and social norms living within society. Certification mechanisms need to be made more inclusive by recognizing hereditary expertise, and supervision should be designed in a participatory manner involving local communities. Integrated harmonization will create a balance between the recognition of cultural identity and the assurance of safety for service users.

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1. INTRODUCTION

Traditional medicine constitutes an integral part of Indonesian society, having developed over generations as a form of local wisdom in maintaining health. This practice encompasses not only the use of herbal remedies such as *jamu*, but also spiritual healing methods, traditional massage, and other techniques passed down across generations. The continued existence of traditional medicine is attributed to its ability to meet the healthcare needs of the community, particularly in regions with limited access to modern medical services. This reality indicates that traditional medicine holds a strong social position and forms part of a living health system within society.

State recognition of traditional medicine has begun to emerge through various regulations, including Law Number 17 of 2023 on Health, which incorporates traditional health services into the national health system. This regulation provides opportunities for the development, utilization, and supervision of traditional medicine so that it can coexist with modern healthcare services. On the other hand, various technical policies—such as regulations concerning *jamu*, standardized herbal medicine, and phytopharmaceuticals—demonstrate systematic efforts to enhance the quality and safety of traditional medical practices so that they can be scientifically and medically accountable.

The diversity of traditional medicine practices in Indonesia reflects the plurality of cultures, values, and knowledge systems that exist within society. Each region has distinct characteristics of healing practices, whether empirical or spiritual in nature, thus requiring a legal approach capable of accommodating such diversity. The legal pluralism approach becomes relevant as it recognizes the existence of multiple normative systems, including state law, customary law, and social norms that develop within society. This approach allows traditional medicine to continue to exist without losing its cultural identity, while remaining within the framework of the national legal system (Kartika et al., 2025).

Problems begin to arise when the various regulations governing traditional medicine are not harmoniously structured and, in fact, give rise to normative conflicts. The dualism of regulation between the Health Law and other provisions, such as the Criminal Code, creates legal uncertainty for traditional medicine practitioners. On the one hand, the state provides recognition of these practices; on the other hand, there is a threat of criminal sanctions for practices deemed not to meet certain medical standards. This condition creates a dilemma for traditional healers in carrying out their practices legally.

Regulatory disharmonization also affects legal protection for the public as users of traditional medicine services. The absence of clear standards and adequate supervisory mechanisms places the public in a vulnerable position to unsafe or irresponsible practices. At the same time, traditional medicine practitioners face difficulties in fulfilling formal requirements, which are often incompatible with the characteristics of traditional practices based on empirical experience and local wisdom. This situation reflects a gap between the prevailing legal norms and the reality of practices in the field (Astuti & Savitri, 2025).

Regulatory arrangements that are not yet optimally integrated also indicate that the national health legal system has not been fully capable of accommodating the plurality of existing medical systems. Normative recognition of traditional medicine has not been accompanied by consistent policy formulation, both in terms of substance and implementation. The lack of synchronization among laws and regulations, weak protection of traditional knowledge, and the absence of inclusive supervisory mechanisms serve as indicators that regulatory restructuring still requires fundamental improvements.

Based on these issues, this study aims to analyze and formulate the restructuring of traditional medicine regulation within the national health system based on a legal pluralism perspective in order

to address the disharmonization of laws and regulations, as well as to achieve legal certainty, public protection, and fair recognition of traditional medicine practices.

2. METHOD

The research method employed in this study is a normative juridical approach, which focuses on the analysis of prevailing legal norms, principles, and rules. This approach conceptualizes law as a system of norms examined from an internal perspective through statutory regulations, legal theories, and the doctrines of legal scholars (Efendi & Rijadi, 2022). Normative juridical research aims to identify solutions to legal issues such as conflicts of norms, ambiguity of norms, and legal vacuums through the examination of secondary legal materials. The main characteristic of this approach lies in its prescriptive nature, namely providing arguments regarding what ought to be based on the applicable legal provisions (Askin & Masidin, 2023).

The data collection technique in this study was conducted through a literature review relying on secondary legal materials, including books, academic journals, and legal documents relevant to the research topic. A literature review was selected because normative legal research is grounded in data derived from literature and written sources that possess academic and juridical authority. The legal materials utilized consist of primary legal materials such as statutory regulations, secondary legal materials in the form of books and scholarly journals, and tertiary legal materials that support the understanding of legal terms and concepts. Data collection was carried out systematically to establish a strong theoretical and conceptual foundation for analyzing the legal issues addressed.

The data analysis technique in this study employs a qualitative method with a legal interpretation approach. The analysis is conducted by interpreting various legal provisions using methods such as grammatical, systematic, and teleological interpretation in order to understand the meaning and objectives of a legal rule. The collected data are then analyzed logically and systematically to identify disharmonization among regulations and to formulate appropriate solutions. This analytical process also involves deductive reasoning, namely drawing conclusions from general norms to specific issues under study, thereby producing structured and accountable legal arguments.

3. FINDINGS AND DISCUSSION

The Regulation of Traditional Medicine within the Current National Health System

The regulation of traditional medicine within the national health system has currently obtained a relatively strong legal foundation through various prevailing laws and regulations, particularly following the enactment of Law Number 17 of 2023 on Health. This regulation explicitly recognizes traditional health services as part of the healthcare efforts administered by the state. Such recognition reflects an integration between modern and traditional medical systems within the framework of the national health system. Traditional medicine is no longer viewed merely as an alternative practice, but rather as a form of healthcare service that possesses legal legitimacy, provided that it meets the standards established by the government (Naipospos, 2025).

Law Number 17 of 2023 on Health provides detailed regulations concerning the administration of traditional health services, covering aspects ranging from development and utilization to supervision. The provisions of this law stipulate that both central and regional governments are obligated to facilitate the development of traditional health services as part of the national health system. The recognized types of services include various methods such as herbal medicine, acupuncture, massage, and other practices based on local wisdom. The provision of such services must adhere to the principles of safety, efficacy, and quality in order to ensure protection for the public as service users.

Further technical provisions are regulated in various existing Minister of Health Regulations, including Minister of Health Regulation Number 61 of 2016 on Empirical Traditional Health Services, Minister of Health Regulation Number 37 of 2017 on Integrated Traditional Health Services, and Minister of Health Regulation Number 15 of 2018 on the Implementation of Complementary Traditional Health Services. These regulations govern service standards, the competencies of

traditional health practitioners, and the procedures for service delivery within healthcare facilities. Such regulatory frameworks demonstrate the government's efforts to standardize traditional medicine practices so that they become more structured and legally accountable (Sabrina & Hakim, 2026).

Licensing and legality are also essential aspects in the regulation of traditional medicine. Law Number 17 of 2023 on Health requires that every provider of traditional health services possess both a competency certificate and an operational license. Such certification is granted by institutions appointed by the government to ensure that practitioners have the necessary capabilities in accordance with established standards. Traditional health service facilities are likewise required to meet administrative and technical requirements before they can operate legally, thereby establishing a control mechanism over practices carried out in the field.

Consumer protection is also accommodated through Law Number 8 of 1999 on Consumer Protection, which remains applicable and relevant to traditional medicine. Service users have the right to receive safe and non-harmful services and are entitled to claim compensation in the event of losses resulting from the negligence of service providers. These provisions strengthen the position of the public as recipients of services while also imposing legal accountability on providers to conduct their practices responsibly. This cross-sectoral regulation indicates that traditional medicine is governed not only under health law but also in relation to consumer protection law (Wicaksono, 2025).

The existence of these various regulations indicates that the governance of traditional medicine within the national health system already has a relatively comprehensive structure, ranging from statutory laws to technical regulations. However, the reality in practice still reveals inconsistencies among regulations as well as differing approaches in governing traditional practices rooted in cultural values and empirical experience. This condition poses challenges for legal implementation, particularly in ensuring a balance between the recognition of local wisdom and the protection of public safety.

Forms of Disharmonization of Laws and Regulations Related to Traditional Medicine from a Legal Pluralism Perspective

The disharmonization of laws and regulations related to traditional medicine, from a legal pluralism perspective, is reflected in the existence of normative conflicts among various prevailing regulations. Law Number 17 of 2023 on Health has recognized traditional medicine as part of the national health system, including practices based on cultural and spiritual values. This recognition provides space for the diversity of medical systems that exist within society. A different situation arises with Law Number 1 of 2023 on the Criminal Code (KUHP), which contains provisions that may criminalize non-medical practices if they are deemed misleading or harmful. This condition creates a normative conflict between recognition and restriction, thereby generating legal uncertainty for traditional medicine practitioners (Dilaga et al., 2025).

The differing approaches between health law and criminal law indicate a lack of synchronization in formulating policies related to traditional medicine. Law Number 17 of 2023 on Health positions traditional medicine as a legitimate component of healthcare efforts, provided that it meets standards of safety, efficacy, and quality. In contrast, the new Criminal Code emphasizes the protection of the public from practices that are not based on modern medical science. This divergence in orientation demonstrates that one legal system grants legitimacy, while another tends to restrict or even criminalize such practices. From the perspective of legal pluralism, this condition reflects a failure to accommodate the coexistence of multiple normative systems within society.

Disharmonization is also evident in the aspect of legal protection for traditional knowledge. Although Law Number 17 of 2023 recognizes the existence of traditional medicine based on local wisdom, it does not yet provide adequate protection for such knowledge as part of the collective rights of indigenous communities. The existing regulatory framework has not fully integrated the principle of protecting collective rights, thereby creating opportunities for exploitation without clear legal safeguards. This condition highlights an imbalance between normative recognition and substantive protection of traditional medicine practices (Indina, 2024).

Disharmonization is also evident at the level of implementing regulations, particularly in Minister of Health Regulation Number 61 of 2016 on Empirical Traditional Health Services, Minister of Health Regulation Number 37 of 2017 on Integrated Traditional Health Services, and Minister of Health Regulation Number 15 of 2018 on the Implementation of Complementary Traditional Health Services. These three regulations classify traditional medicine into different categories with varying standards. Such differences in classification and requirements often lead to confusion in practical implementation, particularly for practitioners who do not possess a formal background in health education (Hasliani & Wulandari, 2023).

Disharmonization is also evident in the relationship between health law and consumer protection law. Law Number 8 of 1999 on Consumer Protection grants the public the right to receive safe and high-quality services. However, traditional medicine practices based on empirical experience often find it difficult to formally meet such standards. This mismatch has the potential to give rise to legal disputes when treatment outcomes do not meet expectations, thereby placing traditional medicine practitioners in a legally vulnerable position.

Legal pluralism recognizes the existence of customary law and social norms as part of the living legal system within society. The regulatory framework under Law Number 17 of 2023 has not yet fully accommodated this diversity in a comprehensive manner. The standards established tend to follow a modern medical approach, whereas traditional medicine practices are often grounded in spiritual values and local beliefs. This discrepancy between formal standards and social practices indicates a gap between state law and the living law within society (Muhafid et al., 2025).

Disharmonization is also evident in the aspects of implementation and supervision. Existing regulations do not yet provide supervisory mechanisms that are inclusive and adaptive to the characteristics of traditional medicine. The absence of contextual standards makes it difficult to objectively assess traditional medical practices within the framework of positive law. This condition results in weak protection for the public as well as legal uncertainty for traditional medicine practitioners, thereby reinforcing the urgency of regulatory restructuring that is more aligned with the principles of legal pluralism.

The Ideal Restructuring of Traditional Medicine Regulation within the National Health System to Address Disharmonization of Laws and Regulations

The ideal restructuring of traditional medicine regulation within the national health system must begin with efforts to harmonize legal norms that are currently dispersed across various laws and regulations. Law Number 17 of 2023 on Health has provided a foundational recognition of traditional medicine; however, its implementing regulations still require synchronization to prevent normative conflicts with other regulatory frameworks, such as criminal law and consumer protection law. Regulatory restructuring should be directed toward the development of an integrated legal framework, ensuring that each regulation is clearly interconnected and does not contradict one another. Such harmonization efforts can be achieved through revision, substantive alignment, and the formulation of implementing regulations that are more responsive to the practical needs of traditional medicine practices (Partama et al., 2025).

A legal pluralism approach should serve as the primary foundation in formulating policies on traditional medicine. The national legal system should not rely solely on state law, but must also recognize the existence of customary law, cultural values, and social practices that live within society. Traditional medicine represents a manifestation of local wisdom that has developed across generations; therefore, an ideal regulatory framework must be capable of accommodating such diversity without eroding its identity. The integration between state law and the living law within society will create a regulatory system that is more inclusive and adaptive to social realities.

The standardization of traditional medicine practices needs to be formulated in a contextual and flexible manner so as not to impose the paradigm of modern medicine unilaterally. Existing regulations tend to adopt a rigid scientific approach, whereas many traditional practices are grounded in empirical experience and spiritual values. An ideal regulatory restructuring requires standards that take into

account the distinctive characteristics of traditional medicine, including healing methods, materials used, and the relationship between healer and patient. Such standards must still ensure aspects of safety and efficacy, but should be designed through a more adaptive approach to traditional practices (Sabrina & Hakim, 2026).

Strengthening legal protection for traditional knowledge is an aspect that cannot be overlooked in regulatory restructuring. Traditional medicine is often based on the collective knowledge of indigenous communities, which has not been optimally protected within the national legal system. An ideal regulatory framework must establish mechanisms for protecting communal intellectual property rights, including preventing exploitation by external parties without the consent of the knowledge-holding communities. Recognition of these collective rights will ensure justice for indigenous communities while also preserving the sustainability of traditional medicine practices.

The restructuring of traditional medicine regulation must also give serious attention to licensing systems and the recognition of practitioners' competencies, which have traditionally developed through generational transmission within communities. Traditional medical practices are fundamentally rooted in empirical knowledge passed down across generations, and therefore cannot always be measured using formal educational standards as applied in modern health professions. This condition creates a gap between administrative requirements set by the state and the actual competencies of practitioners in the field. An overly formalistic licensing system risks excluding traditional practitioners who, in fact, possess strong social legitimacy within their communities (Sonjaya, 2022).

The need for a more inclusive certification system constitutes a strategic step in regulatory restructuring. Recognition of empirical experience, community recommendations, and practice-based competency assessments can serve as alternatives in evaluating practitioners' eligibility without relying entirely on formal education. This approach can bridge the gap between the state legal system and the social practices that exist within society. Competency standards remain necessary to ensure the safety and quality of services, but they should be formulated in an adaptive manner so as not to eliminate the distinctive characteristics of traditional medicine.

Supervision of traditional medicine practices also requires a shift in approach to become more contextual and effective. The existing top-down supervisory model often fails to address the complexity of practices at the local level due to a lack of understanding of the cultural values and belief systems underlying them. An ideal supervisory framework should involve multiple stakeholders, including the government, healthcare professionals, and indigenous communities as the custodians of traditional knowledge. Community involvement in the supervisory process will strengthen social legitimacy while also enhancing compliance with collectively agreed norms (Budiyanti & Herlambang, 2023).

A participatory approach to supervision also reflects the principles of legal pluralism, which recognize the existence of multiple normative systems within society. The Indonesian legal system itself is formed through the interaction of state law, customary law, and social norms that have developed historically. Community-based supervision can serve as a means to integrate these various systems into a more harmonious mechanism. The involvement of communities as part of the supervisory system enables a more objective assessment of traditional medicine practices in accordance with local values and needs.

The formulation of ideal policies on traditional medicine must be directed toward achieving a balance between recognition, protection, and regulation within an integrated legal framework. Regulation should not function solely as a restrictive instrument, but also as a means of empowerment that enables traditional medicine practices to develop in a sustainable and responsible manner. A legal system capable of accommodating the principles of legal pluralism will create legal certainty while preserving the sustainability of local wisdom, thereby minimizing the disharmonization of laws and regulations and ensuring fair protection for all parties.

4. CONCLUSION

In conclusion, the regulation of traditional medicine within the national health system has established a relatively strong legal foundation through various laws and regulations, particularly Law Number 17 of 2023 on Health, which recognizes the existence and role of traditional medicine as part of healthcare services. This recognition reflects an effort to integrate modern and traditional medical systems within a unified national legal framework. However, the existing regulatory reality still demonstrates normative disharmonization among regulations, both between health law and criminal law, as well as between formal standards and practices based on local wisdom. This condition creates legal uncertainty for traditional medicine practitioners and results in suboptimal protection for the public as service users. Other issues include the inadequate protection of traditional knowledge and the absence of adaptive and participatory supervisory mechanisms. These circumstances indicate that the current legal system has not fully accommodated the principles of legal pluralism, which recognize the diversity of normative systems within society. Therefore, regulatory restructuring becomes an urgent necessity to achieve legal certainty, justice, and the sustainability of traditional medicine practices.

The recommendations proposed in this study are directed toward the need for a reformulation of legal policies that are more integrated and grounded in a legal pluralism approach. The government should undertake harmonization of the various laws and regulations governing traditional medicine to prevent normative conflicts and regulatory overlap. The formulation of implementing regulations under Law Number 17 of 2023 should be carried out more responsively by considering the diverse characteristics of traditional medicine practices. Efforts to protect traditional knowledge must also be strengthened through regulations that recognize the collective rights of indigenous communities in order to prevent unauthorized exploitation. Furthermore, the development of a more inclusive certification and licensing system is necessary to accommodate traditional practitioners whose expertise is based on empirical experience. Supervision of traditional medicine practices should involve community participation and local stakeholders to ensure greater effectiveness and contextual relevance.

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