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## An Analysis of The Rights to Health and The Traditional & Complementary Medicine (TCM) Healthcare Services in Malaysia

Norazlina Abdul Aziz<sup>1</sup>, Nurrulhuda Ahmad<sup>2</sup>, Izuan Izzaidi  
Azmi<sup>3</sup>, Che Natheera Abd Aziz<sup>4</sup>

<sup>1,2,3</sup>Faculty of Law, Universiti Teknologi MARA, Malaysia, <sup>4</sup>Faculty of Business and Finance,  
Universiti Tunku Abdul Rahman, Kampar, Perak, Malaysia

Email: [noraz397@uitm.edu.my](mailto:noraz397@uitm.edu.my), [nhuda432@uitm.edu.my](mailto:nhuda432@uitm.edu.my), [izuan124@uitm.edu.my](mailto:izuan124@uitm.edu.my),  
[natheera@utar.edu.my](mailto:natheera@utar.edu.my)

Corresponding Author's Email: [nhuda432@uitm.edu.my](mailto:nhuda432@uitm.edu.my)

### Abstract

The right to health is a fundamental human right that is recognised globally. Traditional and complementary medicine (TCM) is an important aspect of healthcare and is recognised as an essential part of primary healthcare in many countries. The World Health Organization (WHO) has developed guidelines on the integration of TCM into healthcare systems, and several countries have developed policies and regulatory frameworks for TCM. However, the integration of TCM into healthcare systems has raised concerns about patient safety, efficacy, and quality. Government should ensure that TCM is available, accessible, and of good quality. This requires the development of policies and regulatory frameworks that ensure the safety, efficacy, and quality of TCM products and practitioners. With the expensive medical cost of modern medicine, alternative healthcare services of TCM provide a solution for the less fortunate group in society. Currently, the Malaysia's TCM healthcare services are in good progress in developing a well-structured legal framework for TCM. Issues such as monitoring the service providers, accreditation of the practitioner, conflict of legislative jurisdiction, and the nature of a multicultural country become a burgeoning barrier in formulating an adequate legal framework. This study examined these significant issues to suggest appropriate legal reforms in upholding the rights to Health related to TCM healthcare services in Malaysia. The study adopts qualitative research of an in-depth analysis of the local and international sources and semi-structured interviews. The data were descriptive analysis of legal norms based on primary sources. Data acquired from both works were then analysed using specific gleaning themes and coding to supplement the analytical discourse. The findings of the research may assist the policymakers and stakeholders in proposing for enhancement of the legal framework governing TCM services in Malaysia.

**Keywords:** Healthcare, Rights to Health, Traditional and Complimentary Medicine, Law

## Introduction

The acknowledgment of Traditional and Complementary Medicine (TCM) as part of the healthcare system has gained popularity even among people who practise modern or conventional Medicine (He et al., 2022; Hei et al., 2015). The increase in popularity invites many players to join the healthcare industry and opens more risks. (Emmanuel et al., 2013). The risk exposure requires the TCM practice to have reasonable regulations not only to protect the consumers but to ensure the industry's sustainability. On the other hand, the sustainability of the TCM practice and industry is not only directed at preserving traditional knowledge of the local community but also helps ensure people's rights to health. The use of TCM is familiar to all regions of the world. The historical records of each country confirmed the existence of traditional treatment practices and medicine deeply rooted in the local community (Abd Rahman, 2022). Even though modern medicine has evolved for a long time, empirical investigations reveal that TCM is beneficial in healing chronic diseases (He et al., 2022). Modern Medicine's crisis has manifested in its inability to cure major chronic diseases and the heavy financial burden imposed by modern science (He et al., 2022). As a result, TCM began to gain recognition globally with the increase in the global market (Care et al., 2021, He et al., 2022; Peltzer, 2018; Hei et al., 2015). The World's Health Organisation (WHO) Traditional Medicine Strategy 2014-2023 and the Regional Strategy for TCM in the Western Pacific 2011-2020, member countries in the Western Pacific region are encouraged to integrate TCM into the national health system and ensure the quality, safety and effectiveness of TCM services. WHO recognises that traditional medicine has the potential to contribute to the attainment of universal health coverage and the Sustainable Development Goals (WHO Global TCM Report, 2019). The strategy aims to promote the safe and effective use of traditional medicine, ensure access to traditional medicine, and promote the integration of traditional medicine into national healthcare systems.

The WHO has developed guidelines for using traditional medicine appropriately, emphasising the importance of safety, efficacy, and quality control. These guidelines aim to protect the rights of patients who use traditional medicine and ensure safe and effective treatment. Integrating TCM into the mainstream healthcare system aligns with human rights protection. The right to health is one of the internationally agreed human rights standards, and the assurance of the right to health is critical to exercising other human rights. The right to health, as promoted under the Universal Declaration of Human Rights 1948, assures the "right to the highest attainable standard of health" that imposes on the government a legal obligation to ensure the right conditions for promoting the health of all people. It can be seen that the conventional healthcare system could not adequately offer healthcare services to all segments of the population due to financial constraints, and TCM patches this hole. Thus, TCM must be acknowledged as an essential component of the whole healthcare system in a country to assist according to the rights to health for all. For this reason, TCM, practised in every country, needs a proper regulatory framework.

In developed countries, the usage of TCM as a substitute for conventional medicines is associated with the patient's dissatisfaction with modern conventional treatments, which they have found to be ineffectual, impersonal, extremely high-tech, and costly (Emmanuel, 2013; Hei et al., 2015). Alternative medicines are appealing due to their fit with the spiritual or philosophic world's representation of health and disease, known as philosophic congruence. It is also sought after due to the ability of patients to have personal control over alternative therapies since they are less dictatorial and more participatory. Though the reasons that explain the interest in TCM may seem evident in developed societies, they do

not consider the contexts of developing countries. TCM may be the only available and accessible healthcare service in certain nations where the populace has limited access to conventional medical services and programs. The study by Emmanuel (2013) displayed the importance of TCM by disclosing the increasing percentage of patients resorting to the TCM treatment system for curative purposes. TCMs commonly treat degenerative and chronic diseases such as obesity, insanities, diarrhoea, cancers, chronic fatigue syndrome, chronic pains, diabetes, and renal diseases (Emmanuel, 2013).

Studying traditional and complementary medicine in Malaysia is significant for several reasons. First, because of the rich cultural heritage where Malaysia's TCM has been an integral part of Malaysia's cultural heritage for centuries. Malaysia is a multicultural country, and each community has its own traditional healing practices. Studying these practices can provide insights into the country's diverse cultural heritage. Second, TCM is becoming increasingly popular in Malaysia, with more people seeking alternative forms of treatment. This trend is driven by various factors such as rising healthcare costs, limited access to modern medicine, and a desire for holistic care. Understanding the reasons behind this trend can help policymakers make informed decisions about healthcare provision. Third, TCM has significant economic potential for Malaysia. It can be a source of income for practitioners, and it can also attract medical tourists to the country. Understanding the economic potential of traditional and complementary medicine can inform policies aimed at promoting its development and growth.

This study critically discussed the need for strengthened legal intervention regulating the TCM practice and industry. The discussion's nucleus is the interconnection between the need for legal intervention and upholding people's health rights. Though TCM and the right to health aim to ensure the best health conditions for all, the links between the two have not been investigated nor considered in the definition and implementation of health policies at the national level. The focus of the study is to what extent Malaysia law and policies correspond to the requirement under the Rights to Health. Finally, studying traditional and complementary medicine in Malaysia is significant because it can provide insights into the country's cultural heritage, the increasing popularity of alternative forms of treatment, the public health implications of traditional and complementary medicine use, and its economic potential.

### **Literature Review**

There are a series of studies within the area of medical and social perspectives. Some studies highlighted that most Malaysian resorted to TCM to treat chronic illness diseases (Tahir, 2015; Yusoff, 2019; Park, 2022; Mohiudin, 2021). TCM has been widely used for centuries, and its use is increasing globally, including in developed countries. Many people seek TCM as an alternative or complement to modern medicine, and it is estimated that up to 80% of the world's population relies on TCM for their primary healthcare needs (WHO, 2019). During the spread of Covid-19, there have been increased writings on using traditional medicine as an alternative to curing Covid-19 patients (Umeta et al., 2021; Karatas et al., 2021). The study discloses that traditional and complementary medicine is used to prevent and curing of Covid-19 related diseases. The studies unanimously agreed on the need for legal intervention in monitoring the safety, quality, and efficacy of TCM services.

TCM includes a range of practices, such as acupuncture, herbal medicine, massage, and yoga. The efficacy and safety of TCM have been the subject of extensive research, and many studies

have shown that certain TCM practices can effectively treat various health conditions, including chronic pain, anxiety, and depression (Smith et al., 2018). Although many TCM are regarded as safe, there may be both direct and indirect dangers when using TCM. Direct dangers are those associated with the TCM intervention itself, such as contamination or poor manufacturing quality or how it interacts with other therapies, including herb/drug interactions (Karatas et al., 2021).

However, there are also concerns about the safety and efficacy of some TCM practices. Many TCM practices have yet to be subjected to rigorous scientific testing, and some may be ineffective or even harmful (Umeta et al., 2021). Therefore, there is a need for standardisation and regulation of TCM practices to ensure their safety and efficacy (WHO, 2019). There is an urgent need to implement the TCM regulation act and enhance physician-patient communication and educational programs for the general population about TCM (Karatas et al., 2021). The most unexplored aspects of designing intervention studies of TCM are the thoughtful and systematic development of treatment protocols. These results point to some potential for TCM in Malaysian healthcare management, in which there is an urgent need for more rigorous research into the value of such treatments (Marican, 2021). Alongside this concern is the safety issue where Vincent et al (2021) in his study emphasised the role of pharmacists in advising patients on self-medication using natural products that need to be strengthened.

In Malaysia, the use of TCM is widespread, and the government has recognised its importance by integrating TCM into the national healthcare system. The integration of TCM has been challenging due to the lack of regulation and standardisation and the need for more scientific evidence to support the safety and efficacy of some T&CM practices (Ibrahim et al., 2020). To address these challenges, the Malaysian government has implemented various initiatives to regulate and standardise TCM practices and products. These initiatives include establishing a regulatory body, the Traditional and Complementary Medicine Council, and developing guidelines for the safe and effective use of TCM (Ibrahim et al., 2020). In conclusion, TCM is widely used and is effective for treating various health conditions. The primary literature has yet to delve into the rights to health regarding TCM in Malaysia. The previous study focused on consumer perception, the history of TCM and the general discussion on laws and regulations.

### **Research Methodology**

This research is designed based on the doctrinal study comprising the primary and secondary data and investigation on the legal framework governing Traditional and Complementary Medicine in Malaysia and how the current legal system upholds rights to health, which are essential in providing consolidated analytical findings for the proposal of reformation. The online semi-structured interview is conducted with selected respondents using purposive sampling. Data acquired through literature reviews, doctrinal study and semi-structured interviews were analysed using thematic and content analysis.

### **Findings and Discussions**

#### ***Meaning of Traditional and, Complementary Medicine***

There is no uniformised universal term to define TCM, but all countries agree to the core concept that it comes as an alternative to conventional medicine. Generally, TCM may refer

to non-conventional Medicine (NCM) in some jurisdictions or Traditional and Complementary Medicine (TCM) in another country. It is known as an alternative, integrative, or natural medicine in some countries. TCM is the ancient foundation of every health system, regardless of the labels they are known. Throughout the century, societies have employed TCM to maintain health. Most who write in this area agree that traditional medicines refer to the treatment method that originated in the country. On the other hand, complementary medicine refers to alternative medicine of a foreign country that has been accepted in the country. Some authors stated that the term complementary was used when alternative medicine was incorporated with biomedical approaches (Hei et al., 2015).

The WHO adopts different interpretations of traditional and alternative/complementary Medicine (Abd Rahman, 2022). Traditional medicine is defined by the WHO to include diverse health practices, approaches, knowledge, and beliefs incorporating plant, animal, and mineral-based medicines, spiritual therapies, manual techniques, and exercises applied singularly or in combination to maintain well-being, as well as to treat, diagnose or prevent illness. This definition focuses more on incorporating all TCM practices in world countries. On the other hand, WHO defines complementary and alternative medicine as a broad range of healthcare techniques that are not part of a country's tradition and are not integrated into the dominant healthcare system. In mid-2017, WHO's Traditional and Complementary Medicine unit was renamed to include the term "Integrative Medicine", to cover the integrative approaches of both TCM and conventional medicine regarding policy, knowledge and practice (WHO Global TCM Report, 2019).

Traditional medicine is interpreted to refer to the practice of various kinds of healing acts. It can be noted that herbs or medicinal products are not part of the interpretation. However, the assumption can be made that the practitioner would prescribe appropriate traditional medicinal herbs or products alongside the healing activities. Thus, the scope of traditional medicine includes the practice and the prescribed or used medicinal product. It is interesting to note that alternative and complementary medicine were distinguished from traditional medicine based on a foreign factor that is part of the effort to preserve the identity of a country that can also be defined by the traditional healthcare system that it has. According to some authors, traditional medicine differs from conventional medicine in that it relies on notions not founded on scientific data, unlike modern medicine, and hence avoids the scientific evidence-based paradigm. The following table highlights the differences in the interpretation between traditional and alternative/complementary medicine.

Table 1

*Differences between Traditional and Complementary/Alternative Medicine*

<b>Types/Features</b>	<b>Traditional Medicine</b>	<b>Alternative &amp; Complementary Medicine</b>
<b>Scope</b>	Diverse health practices include various approaches based on the belief system of an ethnic in the country. (WHO)	A broad range of healthcare techniques must be integrated into the dominant healthcare system.
<b>Locality</b>	Part of a country's traditional healthcare system	Not part of a country's tradition
<b>Foundation for healthcare type</b>	not founded on scientific data, unlike modern medicine, and hence avoids the scientific evidence-based paradigm	founded on scientific data like the modern medicines

The TCM, in summary, refers to theories, beliefs, facts, abilities, and methods based on them and specific to diverse civilisations' experiences. (Zakaria, N.F.2021; Kim, Y.J, 2017). In Malaysia, the term Traditional and Complementary Medicine (TCM) was widely used to represent this segment of healthcare practice. The use of TCM in Malaysia is widespread, with many Malaysians relying on it for their health needs. According to a study by the Ministry of Health Malaysia in 2015, about 75% of Malaysians use TCM, and 65% of them use it as their primary source of healthcare. This is due to the availability, affordability, accessibility, and cultural acceptance of T&CM.

However, the integration of TCM into the healthcare system in Malaysia has been challenging due to the need for more regulation and standardisation. There is also a lack of scientific evidence to support the safety and efficacy of many TCM practices, which poses a potential risk to patients. As a result, the Malaysian government has been working to regulate and standardise TCM practices and products to ensure their safety and efficacy.

As a multiracial country, Malaysia has a diverse heritage of traditional medicine. Before the 15th century, traditional native medicine was the type of medicine practised by the Orang Asli of the Malay Peninsular and the Pribumi of Sabah and Sarawak, with some influence from Hindu Buddhism from the sub-continent of India (Haneezah, 2016). However, the practice changed and evolved with the arrival of Islam and, subsequently, the introduction of traditional Chinese Medicine and traditional Indian Medicine during the influx of migrants to Malaya in the next few centuries. The colonisation by the British Empire in the 19th century marked the point where modern medicine was brought in and developed as the mainstream medicine practised in Malaysia. An overview of TCM practice in Malaysia can be summarized as each race in Malaysia has traditional treatment, and therapeutic methods like Malay Massaging and Islamic healing techniques are traditional medical treatments associated with the Malay community. While acupuncture is attached to the Chinese community, Ayurvedic practice is associated with the Indian community whereas chiropractic treatment is an alternative treatment method originating from outside Malaysia. Each of the recognized TCM has a different character thus regulating each need to consider legal hurdles that include

constitutional framework, absence of integrated qualification bodies, and human capital expertise on the enforcement agencies.

### **Rights To Health from the International Law Perspectives**

The 1948 Universal Declaration of Human Rights (UDHR) mentioned health as part of the right to an adequate standard of living (Article 25). Health rights were again recognised as human rights in 1966 in the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Where Article 12 of ICESCR provides:

*“The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for:*

- (a) The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child;*
- (b) The improvement of all aspects of environmental and industrial hygiene;*
- (c) The prevention, treatment, and control of epidemic, endemic, occupational and other diseases*
- (d) The creation of conditions would assure all medical service and medical attention in the event of sickness.”*

United Nations' general comment on the right to the highest possible quality of health clarified and interpreted Article 12 of the ICESCR and recognised the substantive concerns relevant to implementing the right to health. Everyone has the right to the best achievable physical and mental health standard, which imposes a binding responsibility for governments that have ratified it. The general comment incorporates several interrelated aspects that include a sufficiently available and functioning public and healthcare system, a physically and economically accessible health system free of discrimination with readily available information, a sound health system based on medical ethics, and a culturally appropriate and high-quality health system that is scientifically appropriate.

Although Malaysia is not a signatory to ICESCR, the rights to health form part of the requirement of the international convention that Malaysia ratifies, namely CEDAW, CRC, and CRPD. The spirit of the right to health also forms part of several Fundamental Liberties protected under the Federal Constitution of Malaysia. The use of TCM incriminates various human rights, including:

- The right to life, by the conservation of human lives.
- The right to health, by the access to various therapies where they have demonstrated their therapeutic efficacy.
- The right to intellectual property because they belong to the communities that have been using them for centuries.
- The right to work because they generate income for traditional medicine practitioners
- and cultural rights because they belong to and shape the identity of the people.

According to World Health Organisation (WHO) Constitution 1946, the preamble on health rights implies an understanding that health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality (Stutaford, 2014). This provision does not only promote access to healthcare, but the access to healthcare should be made at the appropriate time, and the health product that can be accessible must uphold the safety and quality assurance value. The right to health also imposes requirements on state parties to implement legislation, administration, budgeting, advertising, and other procedures to realise the right to health. Thus, referring to the core



components of global rights to health will assist in formulating the appropriate policy and strategy for traditional and complementary preventative care and health practices.

### **The Traditional and Complementary Medicine in Malaysia**

The Malaysian Ministry of Health established the Malaysian Traditional and Complementary Medicine Division in 2004 to govern the various TCM professions. Traditional and complementary medicine units were established in selected Malaysian Ministry of Health institutions (e.g., government hospitals) on January 11, 2006, to integrate traditional and complementary medicine into the national health care system. Although the TCM Division was established in 2004, due to the complexity of various types of TCM in Malaysia, it took more than a decade to pass specific legislation governing TCM services. On March 10, 2016, the Traditional and Complementary Medicine Act 2016 (Act 775) was passed and took effect on August 1, 2016 (TCM Division Annual Report, 2021). The government has engaged with TCM through administrative measures such as legislation, policies, and guidelines. Since the introduction of the TCM Act 2016, the government has adopted a “phased approach” that promotes the integration and institutionalisation of TCM in stages. It also emphasises “appropriateness” in developing regulations and health care models. The main gist of the TCM Act enforced in 2016 is to guarantee the quality and safety of TCM. Following the introduction of Phase 1 of Act 775, the TCM Order (Specified Areas of Practice) 2017 and the TCM (Designation of Practitioner Body) Order 2020 has come into force effective on 1 August 2017 (TCM Division Annual Report, 2021). Enforcement in Phase 2 focuses on the registration of TCM practitioners in the field of practice recognized by the TCM Council. The period for the second phase transition started on March 1, 2021 until February 29, 2024 (subsection 1(3), TCM Regulations, 2021). The last enforcement phase which is Phase 3 is the total enforcement of Act 775. The enforcement of this phase indicates that the transitional period has expired. Once Phase 3 is in effect, TCM practitioner who fails to registered their service violates Act 775 and legal action can be imposed on the practitioner involved (TCM Division Annual Report, 2021).

Among the TCM services covered, acupuncture accounts for the largest share with 37,989 cases (64.2%), followed by traditional Malay massage (18.6%), herbal therapy as an adjunct treatment for cancer (11.6%), External Basti therapy (3.2%), Varmam therapy (1.8%), and Shirodhara (0.6%) in 2019. As of Julai 2021 there are 15 hospitals in Malaysia that provides TCM services. At the same time, 92 Malaysian Health Clinic and 29 rural clinics are currently offering traditional postnatal care (TCM Division Annual Report, 2021).

Table 2

*Total of Local PT&K Practitioners Registered with the PT&K Council from 15 March – 31 December 2021)*

<b>Types of Recognised TCM</b>	<b>Number of Registered Practitioner</b>
<b>Malay TCM</b>	174
<b>Chinese TCM</b>	1385
<b>India TCM</b>	17
<b>Homeopathy</b>	77
<b>Chiropractic</b>	93
<b>Osteopathy</b>	1
<b>Islamic Medical Practice</b>	489

Source: TCM Division Annual Report:2021

The following section analyses how Malaysian approaches and practises adhering to the pillars of rights to health.

*i. The Availability of TCM*

There Rights to Health are based on adherence to four main factors: availability, accessibility, acceptability, and quality. Concerning TCM, the availability component requires preparing and creating a healthcare system that shall be available to all population segments. As the conventional healthcare system is commonly associated with high cost, resorting to an alternative healthcare system like TCM would ensure that the poor would be guaranteed their right to health.

The availability of TCM in Malaysia can be discussed in two phases: before the introduction of the 2016 TCM Act phase and the post-2016 TCM legislation phase—the landscape of traditional and complementary medicine. The practice of TCM in Malaysia can be traced to the 18<sup>th</sup> and 19<sup>th</sup> eras when the British imported Chinese and Indian immigrants to Malaya. These communities migrated with traditional healthcare practices (Tan et al., 2018). However, it is documented in historical documents that the traditional healthcare practices among the Malay community in Malaya have existed and developed way before the colonisation era. Thus, in deliberating on availability, Malaysia, like other countries, has received an implied recognition from the government on the practice of the traditional healthcare system attached to each race. They are made available since there was no prohibition on their practice. The traditional medicinal practice has assisted in maintaining the community's health since before.

When modern medicine penetrated the healthcare system that occurred by the end of the 19<sup>th</sup> to 20<sup>th</sup> century, there were changes from the self-regulated approaches to the government's intervention approach. As society moves to the globalisation trend, producing more becomes necessary. The practice of healthcare is no exception to the new trend associated with mass production and larger scopes of patients. Transparency becomes diluted, requiring the government to regulate the complicated relationship between the producer, practitioner, supplier, and consumer of healthcare. The Malaysian government has made various efforts to make available a suitable healthcare system that integrates conventional healthcare and TCM since 1996. The first Traditional and Complementary Medicine Act (2013) was passed in 2013 to regulate TCM practitioners. The 2013 Act specifies statutory and mandatory registration, required qualifications, disciplinary actions and sanctions, stop and closure order enforcement, and search and seizure. However, due to technical and enforcement issues, the 2013 Act was enforced in 2016. Since 2016, the government continuously promote the integration and institutionalisation of TCM by implementing the Act phase by phase (Farooqui, 2013). Based on the interview with the representative from the TCM department, Ministry of Health, to date, the 2016 Act requires more time for its full implementation. Among the challenges faced by the authority in implementing the Act includes the unclear interpretation of TCM, the accreditation of the TCM practitioner, completing the voluntary registration phase of the TCM, and the appropriate education system to cater to future TCM qualified practitioner. Currently, fifteen hospitals with integrated medicine units provide a holistic approach towards enhancing health and quality of life (Farooqui, 2013). To fuel the progressive development of the TCM practice in Malaysia, the Malaysian government has signed a Memorandum of Understanding with the People's Republic of China on 7 December 2011 and the India government on 27 October 2010 (TCM Division Annual Report, 2021). During the past 10 years, the China and India government, have continuously provides guidance and support to enable the Ministry

of Health to strengthen the TCM practices in the areas of (1) practice, (2) education and training, (3) products and (4) research.

In summary, the government's effort to ensure the availability of TCM in the Malaysian healthcare system is still in good progress. However, it has yet to reach the total availability stage. This may jeopardise the rights of the poor in the sense of getting adequate protection while assessing the TCM practice when assessing modern healthcare are not possible for them.

*ii. Accessibility of TCM in Malaysia*

Ensuring the availability of proper healthcare for the poor does not necessarily guarantee that they can access the healthcare provided. The right to health is an economic, social, and cultural right guaranteed by national and international legal instruments to ensure everyone's preservation of better health through actions aimed at improving the social, political, and economic conditions of individuals and communities, as well as a better-functioning healthcare delivery system. The preamble to World Medical Association Statement on Access to Healthcare (WMA,2017) can be cited in discussing the right to access vaccines. It is stated: *"Health is not simply the absence of illness, but is more than a state of physical, psychological and social flourishing, and includes an individual's ability to adapt to physical, social and mental adversity. It is affected by many factors, including access to health care and especially the Social Determinants of Health (SDH), and its restoration is similarly multi-dimensional. Society should make access to adequate care available to all its members, regardless of ability to pay."*

The authoritative interpretation of the right to health contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) presents states with apparently contradictory obligations of protecting people from harmful practices on the one hand and enabling access to culturally appropriate healing on the other.

It is important to emphasise that about one billion people lack access to conventional or modern health care. In many parts of the world, lack of access is a leading cause of death. The TCM services in Malaysia have aided in remedying the lack of accessibility to modern healthcare services. TCM services are offered in rural areas in a less formal structure. It sometimes consists of services provided in the practitioner's home in the same area or offers home-to-home services like the Malay TCM of *urut*/massage. The issue is the ability to guarantee safe and efficient service. The unregistered TCM practices are commonly attached based on the suitability of the service to the person receiving treatment. The emergence of the human rights movement must also be considered in this context. Despite the rising literature on clinical, ethical, and economic issues surrounding TCM, there needs to be more research on TCM's contribution to the realisation of the right to health. In short, accreditation and monitoring of the TCM in terms of proper accreditation will impact the accessibility to some groups in the population.

*iii. TCM and the issue of Acceptability in Malaysia*

Acceptability requires the government to ensure that the recognised practice area of TCM is acceptable in the multiracial community. Recognition of various modalities of TCM in Malaysia is pertinent to preserving the harmonious environment between all races. Malaysia's TCM has a multiethnic and multicultural character. Thus, a wide variety of TCM modalities coexist. It is associated with a strong ethnic identity and is regarded as a cultural heritage (Salihah). The Ministry of Health (MoH) has designated seven types of TCM:

Traditional Malay Medicine (TMM), Traditional Chinese Medicine (TCM), Traditional Indian Medicine (TIM), Homeopathy, Chiropractic, Osteopathy, and Islamic Medical Practice (IMP) as Recognised Practice Area (RPAs) in Malaysia.

Special attention and consideration need to be applied in allowing the practice of TCM for each ethnic. Currently, there are problems with regulating the Islamic Medical Practice (IMP) as one of the RPAs in Malaysia. IMP involves a practice where the practitioners utilise references to Islamic sources. Regulating Islamic matters fall under the jurisdiction of states, and regulating matters of healthcare falls under the jurisdiction of the Federal government; there is a conflict of legislative jurisdiction. (Ninth schedule, Federal Constitution). Referring to a similar conflict that had happened in the past, for example, during the introduction of the Islamic Banking Act in 1983 and an attempt to introduce a halal statute in 2010, the approaches taken by the legislative body are applying the dominancy test. This test requires the legislative body to decide the dominancy between the two conflicting matters. For example, Islamic banking matters have banking facilities dominant rather than Islamic matters. Thus, the federal legislative body, i.e. Parliament, has more rights to legislate. As for the halal statute, the Parliament decided it falls under the purview of state power to legislate. In applying this precedent to regulating IMP as part of RPA under Malaysian TCM, Parliament must weigh the dominancy level between Islamic matters or healthcare. Along the process, the end outcome of the decision must be suitable to the local acceptability test. Some of the factors that the Parliament must consider would be whether IMP will be monitored by an authority that is not only an expert in the healthcare system but also an expert on the permissible Islamic healthcare system. This also requires the government to monitor any act of deviationist practice by TCM practitioners in providing their services.

Halal TCM is also a significant issue when discussing the acceptability of a healthcare system in Malaysia. It is significant not only due to Muslim dominance in the population, but halal has also become an area of concern for non-Muslims. The existence of non-Islamic practice when providing the TCM service, for example, on the issue of *aurat* and mahram, violates the rights of a Muslim patient. Similarly, the prescription of TCM medicinal product that is not halal carries the same implication. There is no specific guideline for Halal TCM practices, but MS2424, a guideline for halal pharmaceuticals, may be relevant in guiding the TCM practitioner. The MS2424 is short in providing for the TCM provider activities.

#### *iv. Quality Monitoring of TCM practices*

The legislative quality is essential to Universal Health Coverage because it encompasses both the experience and impression of health care. All facilities, goods, and services require scientific and medical approval. Research activities in Malaysian T&CM policy are focused on evidence-based medicines. Clinical expertise, research evidence, patient values, and preferences are critical to evidence-based practice (Farooqui, 2013). According to World Health Organisation, quality health services should be (WHO, 2022):

- a. Safe – avoiding injuries to people for whom the care is intended.
- b. Effective – providing evidence-based healthcare services to those who need them.
- c. People-centred – providing care that responds to individual preferences, needs and values.
- d. Timely – reducing waiting times and sometimes harmful delays.
- e. Equitable – providing care that does not vary in quality based on gender, ethnicity, geographic location, and socio-economic status.

- f. Integrated – providing care that makes available the full range of health services throughout life.
- g. Efficient – maximising the benefit of available resources and avoiding waste

The difficulty has so far hindered the research's quality in obtaining scientific references (Abd Rahman, 2022). So that this field can be promoted as a qualitatively important, professional, quality, and effective discipline in aiding in the treatment of various diseases that ultimately improve the level of public health, support and encouragement, as well as ongoing motivation, should be given to medical practitioners interested in pursuing their studies in institutions of higher learning. The Malaysian government has attempted to ensure that all of the above has been met by introducing the 2016 Act. The explicit aim of the Act is to ensure that TCM practices are safe, effective, and integrated by regulating the profession of the practitioner. The practitioner must eventually be a qualified, academically based or skill-based TCM practitioner. Monitoring and control are also done on the premises that offer TCM services. As much as the Act 2016 intended to achieve the stated aim, there is still lacking preparedness of the TCM division/officials in the enforcement activities. The majority of the reason is due to the diversity of different TCM modalities.

Table 3

*Summarisation of TCM in Malaysia in addressing Rights to Health*

<b>ELEMENTS OF RIGHTS TO HEALTH</b>	<b>ISSUES</b>	<b>MALAYSIAN LAWS/ REGULATIONS/POLICY</b>	<b>COMMENTS &amp; RECOMMENDATION</b>
<b>AVAILABILITY</b>	A substantial percentage of Malaysia's TCM practitioners have not gone through systematic education or training. In relation to the availability, there can be a scarcity of qualified TCM practitioner post-2016 Act.	1. The TCM 2016 Act stipulates stronger quality assurance of practitioners by requiring them to complete a residency of at least one year after completing the regular curriculum. 2. The TCM Council was formed on January 16, 2017, to regulate the practice of TCM services in Malaysia.	1. Education of TCM in Malaysia is divided into two tracks: academic and skills education. The level of occupational recognition as a profession and the timing of such an achievement is likely to differ for each TCM. 2. The official number of practitioners has decreased since the introduction of formal registration.
<b>ACCESSIBILITY</b>	Although the formulation and introduction of policies and law governing TCM in Malaysia impliedly ensure accessibility to healthcare, the policies and laws do not guarantee the poor access to the TCM services. For modern healthcare, government hospitals offer general medical services to the poor at lower cost, but the quality of medical		The cost of TCM services provided in MoH hospitals is covered with government subsidies, while TCM services in the private sector must be fully paid for by the patients themselves.

	services and treatment is still subjected to criticism.		
<b>ACCEPTABILITY</b>	Acceptability requires the government to ensure that the recognised practice area of TCM is acceptable in the multiracial community. Recognition of various modalities of TCM in Malaysia is pertinent to preserving the harmonious environment between all races. Malaysia's TCM has a multiethnic and multicultural character. Thus, a wide variety of TCM modalities coexist. It is associated with a strong ethnic identity and is regarded as a cultural heritage.		Currently, there are problems with regulating the Islamic healing practice (IHP) as one of the RPAs in Malaysia. IHP involves a practice where the practitioners utilise references to Islamic sources. Regulating Islamic matters falls under the jurisdiction of states, and regulating matters of healthcare falls under the jurisdiction of the Federal government, there is a conflict of legislative jurisdiction. (Ninth schedule, Federal Constitution).
<b>QUALITY</b>	<p>1. Practitioners of TCM with no proper education &amp; training may affect the ensuring of TCM service quality.</p> <p>2. Herbal therapies directly prescribed by TCM practitioners still lie outside the scope of public administration.</p>	<p>1. The government has strengthened quality control by introducing various regulations on educational requirements, the design of a standard curriculum, and mandatory certification at the minimum level.</p> <p>2. The aim of the 2016 Act is to raise the quality and status of TCM practitioners, who will be recognised as independent professionals above a certain level.</p> <p>3. Ministry of Health (MoH) is preparing a mechanism that allows TCM users to complain or file for a dispute resolution. The MoH</p>	Traditional preparations, which are directly prescribed and dispensed as raw and/or dried medicinal herbs by TCM practitioners: exempted from the registration obligation

		annually publishes the results of a complaint by users by type of TCM. This mechanism is stipulated in the TCM Act.	
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### Suggestion and Conclusions

In summary, traditional medicine plays an essential role in the national healthcare system. Its use is widespread and deeply ingrained in many cultures, including in Malaysia. Traditional medicine is often the primary source of healthcare for many people, particularly in rural areas. The integration of traditional medicine into the national healthcare system has several benefits. It can increase access to healthcare, especially for marginalised communities, and improve the overall quality of healthcare services. It can also reduce healthcare costs by providing alternative treatment options and reducing the reliance on expensive modern medicine. However, the integration of traditional medicine into the national healthcare system requires careful consideration and regulation. Safety, efficacy, and quality control are crucial, and traditional medicine should be subject to the same rigorous standards as modern medicine. Collaboration and communication between healthcare providers and traditional medicine practitioners are also essential to ensure the best possible outcomes for patients. Several national, regional, or international authorities continue to be interested in the topic of valuing traditional health knowledge and practices. Future advantages of integrating T&CM in the modern healthcare system would be the reduction of overall healthcare treatment costs while maintaining the quality of healthcare. TCM participation in conventional healthcare is important due to the obvious inconsistency between its use, the benefits it provides for both individual and community health, the risks to the huge financial and safety stakes they represent, and the flaws in the current regulatory systems. Traditional medicines play a complementary role in the national health care system; however, concerns have been expressed by conventional medicine practitioners on the need to address the issues related to herbal safety, adulteration, therapeutic approaches, training requirements and professional ethics. More scientific research needs to be done among traditional medicine practitioners and academicians in order to facilitate the integration of traditional and complementary medicine into the national healthcare system and to support the policy goal of ensuring that practises and products are safe, high quality, and easily accessible. It is crucial to have stringent guidelines for TCM services as well as for public education. In conclusion, the appropriate integration of traditional medicine into the national healthcare system can lead to significant benefits, but it requires careful planning and regulation to ensure patient safety and efficacy.

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