

The Cultural Right to Practice in Traditional Medicinal Knowledge in Zimbabwe

Abstract – in English and French

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Abstract

Cultural resources like traditional medicinal knowledge need to be recognized in their role tied to important regional practices in Zimbabwe. Zimbabwe has the chance to do this under a National Sui Generis Legislation designed apart from the international nexus of legislations that collapse cultural resources with biological and intellectual resources. Even further, because foreign pharmaceutical companies seeking plant genetic resources, called 'green-gold', benefit from the derivatives of traditional medicinal knowledge it is important to protect relevant cultural practices as part of an entire social and symbolic system. This system can be conceived when traditional medicinal knowledge is seen to be accessed, kept, shared, used and valued as a spiritual gift that links individuals, families and community in relationships. Change to this arrangement occurs when the derivatives of it are appropriated for local non-customary use in Zimbabwe's street markets, in a trade union of traditional-healers, as well as for research and development schemes. Acknowledging this spectrum of divergent interests and practices surrounding traditional medicinal knowledge is the most important prerequisite to creating a system of protections for cultural resources. A National Sui Generis Legislation framework that clearly supports and protects the cultural right of local individuals and communities will thereby need to entitle customary and non-customary regional practices pertaining to traditional medicinal knowledge accordingly.

Résumé

La valeur de ressources culturelles comme la connaissance médicinale traditionnelle a besoin d'être reconnue en lien avec leur usage régional au Zimbabwe. Une définition légale des ressources biologique, intellectuelle et culturelle est particulièrement nécessaire afin de créer une législation nationale sui generis qui protège ces ressources. La protection de la connaissance médicinale traditionnelle est d'autant plus essentielle que des compagnies pharmaceutiques étrangères à la recherche du « green gold », ces plantes aux ressources génétiques, bénéficient des dérivés. En tant que constituante d'un système social et symbolique, la connaissance traditionnelle médicinale doit être reconnue comme un cadeau spirituel liant les individus, les familles et la communauté. Or, ces arrangements sont modifiés lorsque les dérivatifs sont ré-appropriés pour des usages non coutumiers par les marchés en plein air du Zimbabwe, par les syndicats des guérisseurs traditionnels ainsi que pour des fins de recherche et de développement. La mise à jour de la gamme d'intérêts et de pratiques divergents qui entourent la connaissance médicinale traditionnelle constitue un préalable pour créer un système visant à la protéger en tant que ressource culturelle. Un cadre national législatif Sui Generis qui supporte et protège clairement les droits culturels des individus et communautés locales devra alors accorder ces droits en fonction de l'identification des différentes pratiques régionales coutumières et non coutumières entourant la connaissance médicinale traditionnelle.

INTRODUCTION

This paper concerns the current legal nexus of plant genetic, intellectual and cultural resources such as traditional medicinal knowledge in Zimbabwe. To date, powerful transnational pharmaceutical companies have invested vast monies to obtain information about medicinal plants in developing countries, called 'green-gold', yet disregarded the prior customary uses of traditional medicinal knowledge. However, when customary practices related to traditional medicinal knowledge (TMK) are perceived as a resource in a cultural symbolic system, it is evident they continue to be responsible for healing, ritual, cosmological, and social needs. Therefore, the practices of the traditional medicinal knowledge system need a unique system of protection formulated under National Sui Generis Legislation for Zimbabwe.

In the chapters to come, this paper will describe the customary/contemporary practices that maintain the traditional medicinal knowledge system in Zimbabwe. By reiterating how this cultural resource is accessed, kept, shared, used and valued as a spiritual gift that links individuals, families and community, it is possible to re-embed knowledge in practices deserving protection. However, while the practices of this system concern entitlements and rights to maintain customary ways, non-customary local practices also exploit information derived from traditional medicinal knowledge. Divergent interests in this resource include, (1) individual mercenary use in street markets, (2) consolidating political constituency of a traditional healers' trade union, (3) gaining scientific advancements in university research, and (4) commercial profit in medicinal plant product development schemes. Although all of these avenues present a challenge to customary practices in Zimbabwe, they also invite the applications of other Zimbabweans interested in modern scientific, commercial and political applications of TMK.

Therefore, the second ambition of this paper is to explore the possibilities of international, national and customary frameworks of protection and rights legislation that pertain to cultural resources, linked also to plant genetic and intellectual resources. The potential of intellectual property rights, community rights, cultural rights, and traditional resource rights to represent important local customary practices with traditional medicinal knowledge as well as the broader spectrum of non-customary local interests will be explored in conjunction with entitlements. The basis of this examination will be used to provide several recommendations for a truly 'unique' National Sui Generis Legislation in Zimbabwe.

Zimbabwe

Zimbabwe is found in sub-Saharan Africa, North of South Africa, South of the Democratic Republic of Congo, Southeast of Malawi and Zambia, East of Botswana and West of Mozambique. A Bantu-speaking region, its primary cultural tradition is Shona, which possesses four linguistic variations – Kore Kore, Zezuru, Ndau and Karanga (Chiwome 1993). There are also Ndebele whose traditions are more closely linked to the Zulu residing in the South (Carnegie 1970; Selby 1971). Other groups found in Zimbabwe include Tonga, Tswana, Chewa and Ndembu peoples (Beach 1980; Reynolds 1991; Turner 1964). Although members of all of these groups contribute to a strong cosmopolitan, economic and political constituency, two-thirds of Zimbabweans still uphold an agrarian lifestyle in the communal rural areas. The minority of European residents (one percent) represents the legacy of Zimbabwe's colonial history.

The biological diversity in Zimbabwe is as equally rich as the cultural diversity. High (*veld*) and low (*veld*) grasslands broken by wide granite hills (*kopje*) predominate, but a steep semi-tropical highland is found in the East while marshes and wetlands (*vleis* and *danbos*) are found in the north along the Zambezi River Escarpment. Lake Kariba and Victoria Falls also are highly specialized ecosystems. Medicinal plant resources are best known to transnational pharmaceutical companies even though animal diversity draws visitors from all over the world

(Wyneberg 1999, 2000; Van Wyk, Outdshoorn, Gericke 1997). Yet, the biological sources of traditional medicinal knowledge can include any of the,

parts of plant roots, leaves, bark, stems, fruits, grasses, aloes, seeds, thorns, climbers...

As well as,

symbiotic insect-plant growths, as well as any part of an animal and its' excretions

(Chavanduka 1997: 3).

Two-thirds of Zimbabweans rely on a traditional healer, a *n'anga*, and subsequently his or her traditional medicinal knowledge, for some aspect of their health needs in their lifetime (Chavanduka 1997). In addition to this, Chavanduka (1997) documented that traditional healers serve vital roles as community leaders and in facilitating traditional institutions such as marriage, courtships, childbirth, the appointment of elders to a council and regulating crop cultivation. Traditional medicinal knowledge in Zimbabwe largely moves through family apprenticeships consisting of an elder grandparent, aunt or uncle, in combination with an assistant, the *makumbi*, usually a child (Reynolds 1996). This ritualized inheritance of Shona traditional medicinal knowledge extends to most Bantu cosmologies shows Turner (1992) and Reynolds (1996). Therefore, even though the Republic of Zimbabwe combines persons from a variety of linguistic and cultural backgrounds from Africa, wide variation is not expected in the contemporary rituals associated with traditional medicinal knowledge.

The customs of TMK have even persisted today after colonial and missionary legacies left an image of traditional medicinal knowledge hard to alter. TMK practices were trivialized as “superstition” and the *n'angas* called “witch-doctors” (National Archives; Gelfand 1988: 1-19). Despite the efforts of missionaries and colonists to debase traditional healers reputation, it had been bolstered two decades ago due to their active role in the Second Liberation War. With acute timing, the same year the War was won and Independence gained (1980), traditional healers had positioned themselves as new political and economic players under the new Republic of Zimbabwe (formerly Rhodesia). They formed what now functions as a trade union of traditional healers called the Zimbabwe National Traditional Healers Association (ZINATHA) – with a readiness to fight for rights and benefits as well as recognition of their union as an important Zimbabwean institution (Chavanduka 1997). Over the past decade this organization has enumerated traditional healers in a registry and is now a nationally known presence.

However, post-Independence progress in Zimbabwe had been unsteady. In 2001, allegedly through violence and political intimidation, the twenty-year long uninterrupted terms of President Robert Mugabe and his ruling party ZANU- (PF) were extended. Accusations and testimonies of political violence in the country stimulated rebuke and condemnation from the international financial and development community (*The Gazette* January 28, 2002). Yet, prior to this pressures had already been mounting in the country since the Structural Adjustment Programs (SAPS) implemented by the International Monetary Fund (IMF) demanded decreased spending on social services (Stoneman 1989; Auret 1990). Pressures in the urban areas soon became displaced onto the rural areas, especially where land reforms became a rallying platform of many who did not support the urban labor interest - represented by the Movement for Democratic Change (MDC). Therefore, it is to be expected there is less domestic space amidst this political and economic situation for addressing civil and political rights, much less cultural rights, even if the country did not have an export bias over national cultural and biological resources.¹ Nonetheless, rights over a cultural resource like traditional medicinal knowledge are even more important now. A World Health Organization (WHO) statistic claims HIV/AIDS incidences span one-third of the population in sub-Saharan Africa. This, added to the growing

¹ The Zimbabwean government has been accused by numerous civil society organizations including ZIMrights and Amnesty International, of abusing persons' basic freedoms. Zimbabwe's journalists have not had the freedom of the press and have suffered intimidation, kidnappings and physical violence.

trend of SAPS privatization that cuts into water, health care and other essential services, leaves few national institutional supports for poorer Africans. However, a precedent was set in Doha, Qatar when member-states of the World Trade Organization (WTO) conceded that Africa's HIV/AIDS health crisis is more important than any countries' intellectual property right.² Previously, an intellectual property case drawn under the WTO rules was filed against South Africa by the United States for its use of generic HIV/AIDS drugs (Bertrand and Kalafides 1999).³ This raised global scrutiny about the international institutional inequities in both intellectual property protections as well as national health concerns. The argument was that intellectual property rights support transnational pharmaceutical companies at the expense of local African communities whom the companies have no responsibility for (Weissman 1999).⁴

Subsequently, a sense of urgency has fueled efforts by members of the African Union (AU) to gain protection for plant genetic and cultural resources in legislation that could form a viable national alternative to the international intellectual property regime formulated by the WTO, the domestic policies of the industrial countries, and the World Intellectual Property Organization (WIPO). Zimbabwe is therefore found among several developing countries that are drafting National Sui Generis Policy to encapsulate a "unique" and 'of its own kind' of legislative alternative. This has been initiated, by L.T. Chitsike (2001) with the International World Conservation Union (IUCN) and the Food and Agricultural Organization (FAO), in a document entitled, *Intellectual Property Rights and Genetic Resources: Guidelines for Developing Sui Generis National Policies and Legislation to Promote Community and Farmers' Interests for Southern Africa* (2001). While Chitsike's document drafted only guidelines that might underpin the National Sui Generis, it is expected that the final formulation of the Legislation will be completed in consultation with local participants. Whether the Zimbabwean State had the will or the capacity to complete this consultation or not, I had set out to do fieldwork examining the practices of local TMK participants with this knowledge in mind.

Methodology

I conducted fieldwork on traditional medicinal knowledge in Zimbabwe from June 19 to September 7, 2001. I had lived in Zimbabwe four years before, for eight months, while studying with a Syracuse University program of professors specializing in cross-cultural psychology, political science, anthropology, Shona language, African feminism and environmental studies from the University of Zimbabwe. During that time I familiarized myself with the local language, Shona, and the major cultural, political, social and economic issues of the country. Simultaneously, I gained local contacts through an internship with the United States Agency for International Development (USAID).

Due to political and economic instability in the country during my stay in 2001, I based myself in the capital of Harare, less subject to violence over agrarian reform. I stayed with a

² This occurred at the Doha Ministerial meeting of the members of the World Trade Organization (2001). A review of the results of the Doha Ministerial was obtained through the list serve service of *Progressive Response* (2002).

³ The lawsuit was filed under the WTO General Agreement on Trade and Tariffs, Article 27. A pharmaceutical company and the United States Trade and Patents Office (USTPO) contended that citizens made and distributed (more cheaply) the pharmaceutical company's patented HIV/AIDS drug. This case illustrates the bias inherent in patent rights: generic copies and reproductions of HIV/AIDS synthetic drugs violate IPR law, but the use of derivative information from the custodians of TMK rarely achieves the same redress. See Dawkins (1999) for further details.

⁴ Pharmaceutical companies identify biochemical elements of plants and the desired physiological effects presumably without accessing traditional knowledge of the medicinal utility of plants. It is more likely, however, that they worked with ethnobotanists who worked with traditional peoples. See the work of Van Wyk, Outdshorn and Gericke (1997) as an example of how traditional medicinal knowledge is appropriated for literary efforts and published for others' benefit.

young urban Zimbabwean couple related to my friend Grace Dzenga who was a staff member of the Syracuse University program. Their trust and friendship ushered me into their larger spheres of family, friends and neighbors. In the capital I was introduced to resources including:

(1) Academic literature written by: Anthropologists Pam Reynolds (1991, 1996); Michael Gelfand (1962, 1968, 1988); Michael Bourdillon (1975); Victor Turner (1954, 1964, 1970) and Edith Turner (1992), sociologist Gordon Chavanduka (1979, 1997) and Folklorist Emmanuel Chiwome (1993, 1996).

(2) Relevant Shona poetry, songs, novels and writings on the traditions of “the golden and old days of Zimbabwe”, *Pasichigare*, when medicinal plants were widely used;

(3) Newspaper accounts of the controversy over recognizing traditional healers obtained from the state paper, the *Zimbabwe Herald*, and the independent papers of the *The Daily Mail* and *The Independent*;

(4) Transcripts of past interviews with healers, mediums and traditional authorities in the National Archives of Zimbabwe. I obtained an interview with President Macheke commenting on the formation of the first traditional healers association, the National *Varapi* Association. This account told of the types of healers and practices that the young organization was conflicted over including or excluding. Among the conflicted topics included the whether or not traditional medicinal plants should be sold to the colonial government, the British Crown, American scientists (1950s) and/or the general populace in the markets established in town.

(5) Gordon Chavanduka, the President of ZINATHA, other traditional healers and merchants who sell traditional medicinal plants in the metropolis, as well as the academics, policy-makers and lobby groups who are approaching the protection of cultural, intellectual and plant genetic resources and rights from an applied perspective.

Despite the media reports of political violence, news and embassy reports identified which rural areas were safe to visit. Therefore, I began my study in Guruve and Chaminikire Village, six hours north of Harare. I spent two consecutive weekends here conducting interviews of healers and traditional authorities. I spent the subsequent two weeks in the villages and towns in the Eastern Highlands, located 10 hours East of Harare. I traveled to the towns of Chimanimani and Chipinge before conducting interviews in the surrounding rural areas. Chipinge is renowned as a gathering site for powerful healers, many of whom travel to both South Africa and Mozambique in order to add to their healing repertoires. My research assistant provided access to the surrounding rural areas through his relatives living in Nyamasundu Valley, Chirinda Valley, Mount Selinda and Tilbury Estates. His assistance and recommendations aided my in-depth interviews, follow-up interviews and participation-observation.

I subsequently moved both West and North to Binga and Lake Kariba in an area where the Zambezi River widens to become the Zambezi Escarpment. This area possesses unique flora and fauna found primarily in the wetlands, *vleis* and *danbos*. Primarily Tonga speaking people still inhabit this area, however, many of the individuals I interviewed spoke four languages fluently, including English, Shona, Ndebele, Tonga and often Njanja also. This area had also been called the “jackpot” of healing traditions in Zimbabwe. I stayed here for one-and-half weeks before heading to Plumtree on the border with Botswana for several interviews. Lastly, I accompanied two assistants of one traditional healer to the high *veld* outside Concession in Mashonaland Central, three hours North of Harare. This was to interview, observe and understand the traditions surrounding the collection of the medicinal plants.

I chose to visit this range of sites after beginning in the cosmopolitan capital of Harare. In Harare, the healing traditions flow in from all the surrounding areas. Therefore, I thought that it was less important to stick to one ethnic group's healing practices since I had already begun to be exposed to the cosmopolitan mixture of Bantu traditions in Harare. Consequently, I found there could be a value in obtaining a picture of the overall range as well as the commonalities between the different healing traditions in the country. I think this approach is especially important because it reflects the contemporary phenomena of creolization, dislocation and cosmopolitan movements that contribute to a *mélange* of tradition that is still informed by the common Bantu heritage.

My use of the services of a translator allowed my informants to speak in their mother tongue, Shona, Tonga or Ndebele, in interviews. In doing so, I used significant Shona terms (seen in the text) interspersed with my English to encourage rapport with Shona-speaking informants.⁵ Of the formal interviews, I conducted:

- (a) One with a spirit-medium, *svikiro*;
- (b) Four with members of the local government and traditional authority structures - one sub-chief, *sadunhu*, two headmen, *sabukus*, and one rural district councilor;

- (c) Seven with healers' assistants, *makumbis*;
- (d) Twelve with patients/consultants of different healing traditions;
- (e) Twelve with traditional healers, *n'angas*;
- (f) One not yet consecrated traditional healer, *n'anga*;
- (g) Three with individuals who called themselves 'doctors' or 'herbalists' in the newer terms, "*chirembas*" or "*chitopotas*";

- (h) Five with plant, *muti*, merchants;
- (i) Two with officials of ZINATHA- the trade union of Zimbabwe Traditional Healers;

- (j) One with a pharmacy student;
- (k) Six with the relatives of traditional healers, *n'angas*.

Confirmation of my material sometimes came from conversations with informal sources. A portion of my data was obtained from helpful acquaintances that had wanted to contribute to my understanding of their own families' *n'angas* by collecting interviews for me.⁶ With each of my informants I first gave a description of myself as a student-anthropologist who studies human relationships and culture. I explained verbally to each informant the ethical requirements of my research as outlined by the research protocol and accepted in my research consent form.⁷ For security of their association with me, each informant was given a copy of a letter from Dr. Emmanuel Chiwome, a professor at the University of Zimbabwe who supervised my project with the understanding that: (1) I was not aligned with any of the major political parties; (2) I was not involved in research around the contentious land reform issue; and (3) my aim was to talk to traditional and cultural authorities and persons about traditional medicinal knowledge circulation. All participants gave either written signatures or verbal consent to be both included in this research and have their names printed in this text. The participant-observation I engaged in was as

⁵ Since these Shona terms provided for me a vital linguistic portal into the traditional medicinal knowledge system I have kept them in my text in order to emphasize their significance.

⁶ Although I did not rely on this material since I had not collected it first hand and had not subjected it to ethics or other restrictions I viewed it as second-hand confirmation of my own material.

⁷ The research consent form is a form submitted to the Research with Human Subjects Ethics Board. Mine was approved and documentation of this is provided in the appendices.

an observer of patient/consultants visiting *n'angas* for healing and strengthening medicines, ritual cleansing and rituals for thanking and invoking the ancestors in order to re-establish one's health and spiritual well-being.

Outline of chapters

The first chapter of this paper lays out the critical differences and relationships between plant genetic, cultural and intellectual resources before addressing the way they have been collapsed together under legislative frameworks. The current merger of international, national and local legislation in Zimbabwe's National Sui Generis Legislation will also be shown to be lacking specificity in its representations of the local practices that reproduce traditional medicinal knowledge. The consecutive chapter contains the results of fieldwork I conducted on the customary practices, rituals and symbols that socially renew the traditional medicinal knowledge system in Zimbabwe even today. It is shown that this system is comprised of individual authorities that keep the core traditional medicinal knowledge secrets and benefit a larger social field with related symbols, rituals and services. In the chapter following this, the traditional medicinal knowledge system is revealed to benefit even Zimbabweans who engage in non-customary practices. These are those whom I will call 'agents of separation' because they appropriate derivatives of traditional medicinal knowledge in non-customary ways that both draw upon and diminish tradition. The last chapter considers the results of these findings to argue for entitlements to customary and non-customary practices in Zimbabwe's National Sui Generis Legislation. Both sets of customary and non-customary divergent interests could be supported in such an arrangement that will variously recognize and protect local TMK practitioners with a cultural right to reproduce and continue TMK practices.

CHAPTER ONE: Cultural, plant genetic and intellectual resource rights and frameworks

Rights in and the protection of plant genetic and intellectual resources have preoccupied the agendas of intergovernmental agencies to the extent that cultural resources have become entangled in them without full understanding of their role or significance.⁸ To date, cultural resources have only gained partial international protection now as they have pertained to “common heritage” plant genetic resources. I will outline these legislative mergers of international, national and corporate interests in each of these resources as they have provided the contextual basis for the National Sui Generis Legislation and therefore also my fieldwork, analysis and conclusions. Prior to this, however, it is critical to untangle cultural resources, such as traditional medicinal knowledge, from the genetic and intellectual resources and distinguish its practical intermediary role between them. This distinction begins with an incipient definition of biological and plant genetic resources and is capped by a refined definition of intellectual resources.

Biological and plant genetic resources

Local knowledge, in practice, helps identify the healing and medicinal properties of biologically diverse genetic resources while developing applications and relationships with them. Indeed, the intimacy of local relationships with the greater natural environment can yield sophisticated ecological, medicinal, agricultural and veterinary knowledge (Johnson 1992; Plotkin 1993; Reichell-Dolmatoff 1976; Rappaport 1967). Further, while local knowledge of the environment is not expressed in chemical, genetic or standard Linnaean taxonomic terms, the resulting accumulation of local referents to the utility of biological resources shows that they are extremely valuable.⁹ However, since development plans and legislations are primarily concerned with accessing, primarily biological resources in their on-site, *in situ*, utility for an off-site, *ex situ*¹⁰ exploitation or conservation, the role of local knowledge as a cultural resource has been reductively valued only in regard to its ability to refer to biological resources.

The cultural resource

It has been academically established that the local knowledge of indigenous peoples has inherent inalienable value as a cultural heritage and resource (Leach and Mearns 1996; Reichell-Dolmatoff 1976; Weiner 1992). Nonetheless, academics, policy-makers and even indigenous, local, traditional and native persons themselves have lacked a consensus on how to define this knowledge and therefore how to ascribe it value. Is it traditional, indigenous or local knowledge? While there is no obviously ‘correct’ terminology, most prior references distinguish generally the knowledge of native, indigenous, aboriginal, pastoral, local and traditional peoples from the knowledge of the modern industrial countries that arises from the empirical logic of technoscience (Haraway 1997). However, Argawal (2000) convincingly resists this diametric

⁸ Or more likely, because cultural resources are related to plant genetic resources and intellectual resources plans for them are collapsed into the plans for the others. The World Intellectual Property Organization (WIPO) (2001: 20) in particular notes that its terminology and conception of traditional knowledge is not adequate even as it is responsible for harmonizing legislation that pertains to all three types of resources.

⁹ The value is well established by ethnobotanists, such as Plotkin (1993), as well as the profit of pharmaceutical companies. See Mooney (1997) for statistics about the various pharmaceutical profits based on the derivatives of traditional knowledge in developing countries.

¹⁰ *Ex situ* is the utilization of a biological product out of its natural region or environment.

opposition. In his view, this vision (forwarded by Strauss 1962, 1966 and cited in Argawal 2000) must be overcome via a lens that sees that:

Indigenous knowledge is closed, non-systematic and holistic rather than analytical, without an overall conceptual framework, and advances on the basis of new experiences, not on the basis of a deductive logic.

Argawal (2000: 11) implies that indigenous knowledge is a non-transferable territorial knowledge that evolves in relation to the local milieu. If this is the case can we really conceive of a “common” traditional knowledge? To some, the commonality is in the “tradition” which connotes a belonging to the past, rather than to the present. In this paper, however, I support the word “traditional” following the distinction made by Berkes (1999: 5) because it refines ‘indigenous local knowledge’ to plural and particularistic manifestations. He argues:

I prefer to use the term 'IK' (indigenous knowledge) more broadly as the local knowledge held by indigenous peoples, or local knowledge unique to a given culture or society. Of course, much of the IK (indigenous knowledge) literature is not about ecological relationships but about many other fields of ethnoscience including agriculture, ethnobiology, and ethnomedicine. Some of these other areas of ethnoscience -- for example, ancient erosion control techniques and water conservation --are directly related to ecological knowledge, but others (e.g., ethnoastronomy) less so. For these reasons, I limit the use of 'TEK' (traditional ecological knowledge) to explicitly ecological knowledge, and consider it a subset of IK.

By this reasoning traditional medicinal knowledge is a subset of indigenous knowledge but one that is informed by medicinal traditions unique to a region or territory.¹¹ Additionally, numerous anthropologists’ ethnographies make it evident that entire social and symbolic systems and resources emerge from these traditions and the related traditional knowledge (Appadurai 1990; Bourdillon 1976; Gelfand 1962; Reynolds 1996; Strathern 1996). How this occurs is a common anthropological observation: Traditional knowledge is enacted through socially integrative rituals, relationships and the reproduction of tradition (Mauss 1954; Turner 1970). Furthermore, cultural resources are locally treasured, “inalienable possessions” that may build identity, status and authority for local families and individuals who receive reward by social (symbolic) capital (Bourdieu 1977; Weiner 1992). Thus, we are able to conceive of cultural resources, such as traditional knowledge, as practices and behaviors that activate and reproduce social systems rooted in territory and tradition. As we will see, intellectual resources, on the other hand, are abstracted products that simulate (copy) the experiences and practices evolved amidst a particular territory and tradition in different conditions and contexts.

Intellectual resources

Information that ‘tells’ the utility of a biological resource is extracted not from a biological resource, but from local agents who practice traditional knowledge of it. Isolated information about biological properties is therefore appropriated, as a derivative, from traditional knowledge.¹² This isolation of a derivative, that is abstracted and transported from a ‘mundane’

¹¹ Although “indigenous peoples” have been lumped together as categorically different from the modern western society, the traditions of each should be recognized as distinct. In support of this approach, the Indigenous Persons Earth Charter writes, “tradition cannot be separated from science. For a copy of the *Indigenous Persons Earth Charter*, see the appendices of Posey and Dutfield (1996).

¹² Legislative definitions create categories that may either obscure differences or create them. For instance, a ‘derivative’ in development discourses is defined as a product extracted or developed from a biological resource. While a biological resource is self-replicating, when it is empirically reduced to its chemical

context calls testament to the high value placed on products found in the ‘private’ domain of resources opposed to resources in the ‘public’ domain. It is critical to note this since as cultural resources are believed to be a “common heritage” and part of the public domain, they have been valued less than intellectual resources. This distinction is drawn by the history of Western Science that establishes “truth” in private settings e.g. laboratories first, before the product is ‘unveiled’ to the public (Haraway 1997). The “truth” of a cultural resource, however, is not established even if it may be restricted by territory because the ‘unveiling’ of a cultural resource typically remains in ritual on-site productions, opposed to highly circulated transnational products. On the other hand, the intellectual resources compiled through the application of high information technologies e.g. in the fields of bioinformatics, genomics and biotechnology, are located in private academic communities, research institutes or corporations become products found throughout the world.¹³ A ‘technological treadmill’ thus manufactures the value of intellectual resources: those that are least circulated, are the least “public” and therefore the most “novel”, “rare” and valuable. This phenomenon observed in the Information Economy props Cheater’s (2000: 18) observation that the difference between cultural resources and intellectual resources parallel the distinction between ‘information’ and ‘knowledge’:

If ever it was ‘knowledge’, is no longer synonymous with ‘information’. “To know” requires no object: etymologically knowledge is essentially personalized, as sensory or mental constructs. In contrast, ‘to inform’ must take an object to make sense. Logically, then, though it is rarely made explicit, ‘knowledge’ can be individualized and by English definition is impossible to transmit, as many teachers attest! ‘Information,’ on the other hand, requires sharing. But since 1937, in the context of ‘information science’, ‘information’ has been dehumanized, being that which is... separated from or without the implications of reference to, a person informed: that which inheres in one or two or more sequences, arrangements, etc., that produce different responses in something and which is capable of being stored in, transferred by and communicated to inanimate things.

Therefore, intellectual resources are abstract derived symbolic products (information) that may be appropriated and transported e.g. in digital code, databases, diskettes, media or written documents called “simulacra” (Baudrillard 1981). A cultural resource (such as traditional knowledge) on the other hand, is a territorial symbolic possession embedded in ‘personal’ knowledge and behavior that is enacted, performed or demonstrated. Cosmopolitan and transnational flows of persons, services and information products leave the impression that *in situ* cultural resources are the natural common heritage of all humans and can therefore be dismissed as ‘raw’ unsophisticated resources.¹⁴ The international discourse and frameworks that neglect to represent the sophisticated cultural systems and individual agency involved in maintaining, developing and protecting cultural resources contribute to this misidentification and devaluation. Because of this neglected distinction, I have chosen to use the term ‘derivative’ for the remainder

components, the abstracted information becomes a product that may receive an intellectual property right or patent restricting its use. I posit, however, that the importance of cultural resources, such as traditional medicinal knowledge, are obscured and overlooked in the use of this categorical definition. The discourse and texts of the World Intellectual Property Organization (WIPO) and the United Nations Convention on Biological Diversity (CBD) both reveal important gaps in attention and comprehension of the role cultural resources like traditional knowledge play in conjunction with both biodiversity and intellectual resources.

¹³ Another bias stems from the delineation of what is ‘utility’ and therefore considered commercially applicable. The utility of biological resource products identified by traditional knowledge, for instance, could be synonymous with commercial or industrial applicability, yet this is still dependent on whether or not technological labor has extracted, miniaturized and reproduced the final product. See Haraway (1997).

¹⁴ A negative value is often attributed to ‘inherent’ resources and abilities opposed to ‘transcendental’ resources. See Mellor (2000). Yet, cultural resources also, particularly in an age of technologically-simulated realities (the ‘simulacrum’) – are subordinated to the realm of unreality. See Baudrillard (1981) and Durkheim (1961).

of this paper and to refer to those abstract intellectual resources extracted from territorial cultural resources. This definition further supports the aim of this paper in emphasizing the customary and territorial importance of cultural resources formerly collapsed into the concerns for plant genetic and intellectual resources. While it should be recognized that cultural resources represent separate and distinct practices that mediate between genetic and intellectual resources, the following section outlines how current international legislation pertains to all three resources. It will be shown that the shortcomings of these legislations further raises the motivation for Zimbabwe to create National Sui Generis Legislation that can uniquely protect the important cultural elements of its local patrimony.

International frameworks

Of the three resources I address in this chapter, intellectual resources were the first to gain an international system of protection. Rights to benefit from, restrict use of and access to an individual's "commercially applicable" and "novel" intellectual resources were first recognized at the Paris Convention for the Protection of Industrial Property (1883). The industrial countries that established the Convention believed that intellectual property rights (IPR) granting legal individuals title to his or her innovations would promote development. Thus, during the development era, following World War II, the World Intellectual Property Organization (WIPO) was created to extend this mandate to the developing countries as well.

However, in 1986 the World Trade Organization (WTO)¹⁵ drastically expanded the scope of intellectual products that could be considered "human creations" to include products fabricated from biological and plant genetic resources. Because the development of biotechnology and pharmaceutical industries was favored, Article 27.3(b), on Trade-Related Intellectual Property Rights (TRIPS), was written into the General Agreement on Trade and Tariffs to promote free enterprise in plant varieties, including the synthetic versions of biological processes, products and resources (Cullet 2001).¹⁶ Yet, this new article, presuming an "open access" regime for biological products raised abundant opposition.¹⁷ Several developing countries, members of the WTO and rich in biodiversity, strongly opposed the TRIPS article not only because it demanded they relinquish their sovereignty of *in situ*, culturally and biologically diverse resources, but that they also would also become demoted to 'colony' status simply because they lacked the technological capacity to synthesize "novel" industrial biological products.¹⁸ The potential loss of total

¹⁵ The WTO facilitates the largest international free-trade agreement, the General Agreement on Trade and Tariffs, otherwise known as the GATT. The GATT, signed by nearly all the industrial and non-industrial countries of the world including China, has been called the "new constitution" of global community by the previous president, Renato Ruggiero. Under the WTO, the "non-trade" tariff barriers to free enterprise are disputed at the WTO tribunal in Geneva.

¹⁶ Ninety percent of biotechnology companies are from the G-7 countries, and one-third of patents for biotechnology products belong to the United States. (Speech by Rodney Squire of Storsa Biomedic. Global Governance Conference, Montreal, October 15, 2002).

¹⁷ Some biologists, for instance, deny the validity of granting an IPR for synthesized biological products because this presumes they are "novel" creations. Ho (1998) argued that the mimicry of biological self-replicating and reproducing processes is not an innovation. She and others concluded that the products of biotechnology are only able to gain patents because they 1) identify the utility, or active ingredients, of biological resources; 2) abstract and translate this information into chemical properties; 3) mimic the chemical relationships to create a synthetic product; 4) standardize these products for mass reproduction; and then 5) package the product for sale (Ho 1998; Plotkin 1998). To date, it remains contentious as to whether any individual should be able to gain an IPR over biological resources that are already self-replicating. This argument can also be applied to cultural resources that are socially self-replicating.

¹⁸ The information derived from its incorporated state will from here on be referred to as a "derivative". While it is the information about a biological resource that is often appropriated, this appropriation has been misnamed as "biopiracy". See Khor (2000).

sovereignty over plant genetic and cultural resources in the name of the GATT's international mercantilism, in fact, forged several unlikely alliances between developing countries, indigenous rights groups, and international environmental organizations. Nonetheless, the United States has continued to hold developing countries accountable to this article by threatening sanctions under the WTO tribunal.¹⁹ This pressure has forced developing countries either to embrace the international IPR regime under TRIPS or accept a loophole, stipulating that: "member states shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof" (Cullet 2001: 1).

National Sui Generis Legislation

It is not surprising then that the chance to create unique, 'sui generis' legislation to protect their biological, cultural and intellectual resources has been embraced by several developing countries including the Philippines, Brazil, India, Thailand and member nations of the African Union (AU). Especially since the IPR law in the WTO/TRIPS trade article contradicts the developing countries' regional interests in developing or benefiting from their cultural and biological resources, *in situ*, several have drafted and accepted National Sui Generis Legislation. African nations in the AU for instance, have signed into law (Model Law) a document entitled, *African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders and for the Regulation of Access to Biological Resources* (2001).

This document outlines the plans the AU members have for arranging a paradigmatically different approach to resource protection than that formulated under intellectual property rights law. In Part IV of the Model Law, member states recognize the prior, '*a priori*', rights of local communities with regard to: i) their biological resources; ii) the right to collectively benefit from the use of their biological resources; iii) their innovations, practices, knowledge and technology acquired through the generations; iv) the right to collectively benefit from the utilization of their innovations, practices, knowledge and technologies; v) the right to use their innovations, practices, knowledge and technologies in the conservation and sustainable use of biological diversity; vi) the exercise of collective rights as legitimate custodians and users of their biological resources (AU 2001: 9). Hence,

The rights of local communities over their biological resources, knowledge and technologies that represent the very nature of the livelihood systems they have evolved over generations of human history, are of a collective nature and, therefore, are **a priori** rights which thus take precedence over rights based on private interests (African Union 2001: 1, emphasis mine).

This recognition of the 'a priori' rights of local communities by the AU Model Law poses a significant deviation from other legislative protection regimes specifically because they take "precedence" over private interests. This is argued because,

It is necessary to protect and encourage cultural diversity, giving due value to the knowledge, technologies, innovations and *practices* of local communities with respect to conservation, management and practices of local communities. And, there is the need to promote and support traditional and indigenous technologies for the conservation and sustainable use of biological resources and to complement them by appropriately developed modern technologies (African Union 2000: 1).

Hence, practices are seen as among the primary rights of local communities as well. This is important because AU member nation, Zimbabwe, is also drafting its own National Sui Generis Policy entitled, *Intellectual Property Rights and Genetic Resources: Guidelines for Developing Sui Generis National Policies and Legislation to Promote Community and Farmers' Interests for*

¹⁹ The US Trademark and Patents Office is particularly vociferous in charging developing countries with violations of the World Trade Organization's TRIPS article. See Weissman (1999).

Southern Africa (2001). However, while Zimbabwe attempts to firmly establish its national jurisdiction over its biological and cultural diversity resources based on this continue to be called part of a global “commons” (WIPO 2001) or the “universal heritage of mankind” (Cullet 2001, citing the Food and Agricultural Organization).²⁰ Further, while Zimbabwe’s Sui Generis Guidelines are drawn from the AU Model Law, its own format is still highly influenced by international conceptions that do not assist Zimbabwe in establishing specifically how cultural resources like traditional knowledge can be protected as an ‘a priori’ practice (stated in the AU Model Law). This is illustrated specifically by Zimbabwe’s individual embrace of ‘traditional resource rights’ which “bundle” rights from the international intellectual property rights regime and international human rights covenants. While ‘traditional resource rights’ will be addressed more thoroughly in a coming section, I will now explore established international frameworks pertaining to intellectual and plant genetic resources and query whether these may or may not help fulfill the AU agenda to protect ‘a priori’ local practices. We shall see this as follows.

Cultural rights

Protections for cultural resources have one or two precedents in international human rights law.²¹ The most promising among these is in the International Covenant on Economic, Social and Cultural Rights (1966). The Covenant asserts that the 131 states party to it must recognize a local right to development that is non-dependant upon this states other international or regional obligations:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

This becomes significant with regard to Article 15 of Covenant that stipulates a cultural right:

To take part in cultural life; To enjoy the benefits of scientific progress and its applications'; To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. (emphasis mine).

As a legally binding document, the Covenant is perhaps the strongest alternative to the mandate of the biotechnology and pharmaceutical industries supported by the industrial countries

²⁰ This mandate, fueled by the trade interests of the biotechnology and pharmaceutical companies, could still challenge Zimbabwe’s ability to establish its jurisdiction as protectorate of these practices, *in situ*, in the Sui Generis framework.

²¹ During the November 2000 meeting of the World Trade Organization, the African Union (AU) and Third World Network resisted the TRIPS Article, while gaining varied support from Brazil, the Philippines, Thailand and India, as well as various environmental and indigenous rights groups like Diverse Women for Diversity, and an indigenous network in the Asia-Pacific region run by Victoria Tauli-Corpuz. See Khor (2000) for a review.

of the WTO. However, because the Covenant applies to state signatories, not to the constituents inside the state, the cultural rights it propounds are not as particularistic as even the right to ‘a priori’ practices that the AU recognizes for local communities. Still, the Covenant’s ‘right to development’ does still fairly parallel the AU conception in this regard.²² Additionally, this right is furthered by the American Anthropology Association (AAA 1998, as cited by Merry 2001: 46) which argues that the a cultural right should support self-directed development within processes and practices that allow local communities to do as follows,

To realize a capacity for culture to produce, reproduce and change the conditions and forms of their physical and social existence so long as such activities do not diminish the same capacities of others.

Hannerz (1997), Milton (1996) and Sen (1999) also suggest culturally reproductive practices, processes and ‘capacity’ are particularly salient in an age of a ‘cosmopolitan globalization’ that can tend to overshadow the particular rights, needs and interests of “territorial cultures”. The continued gestation of territorial cultural resources might then depend upon the refinement of a system of protections that includes cultural rights to local practices. However, established legislations e.g. intellectual property rights, may pose several assumptions inappropriate for these local practices, as we shall see.

Intellectual property rights

Intellectual property rights are essentially cultural rights for industrial societies. In fact, the right to practice the development and generation of cultural resources is assumed in most countries of the world, but the right to abstract and isolate intellectual products for commercial application and profit is restricted to private individuals and institutions. This private right to profit from commercial derivatives of cultural resources, however, did not become crystallized until the 19th Century when the legal definitions of intellectual property and rights were promoted in Europe and the United States to stimulate competition, ‘innovation’ and industrial growth (Coombe 1998).²³ As discussed previously, legal conceptions and definitions drew the line between private and public creations as well as between individual and community fabrications in order to establish what was ‘novel’. Hence, whether or not more than one individual contributed to the final product or not, only one “genius” individual or private corporation could gain credit for synthesis and expression vis-à-vis an intellectual property right (Merryman 1980). Therefore, in the Lockean tradition, the individual adding ‘new’ labor in isolating, combining, extending, rewording, modifying, transferring or synthesizing any intellectual, physical or cultural material gained the patent, copyright, trademark, industrial design, and/or trade secret (Posey and Dutfield 1996: 90). Herein lies a critical problem preventing the protection of cultural resources: Because cultural resources are not abstracted as intellectual resources in an industrial country, they are viewed as “collective” and “common”. Therefore, the transfer of derivatives of territorial cultural resources, ‘ex situ’, into new markets makes them appear to be “novel” products. This becomes problematic because these derivatives are not “novel” to individuals in territories who practice with them, ‘in situ’. ‘Territorial cultures’ have only not used their resources for “commercial application” in favor of their use in maintaining collective social arrangements.

Collective rights

Cultural resources can support the formation of a collective identity. However, in international law, the recognition of collective entities is limited to states and corporations. This

²² The 1996 UN Covenant on Social, Economic and Cultural Rights is extended from the 1947 United Nations Declaration on Human Rights.

²³ This debate has sometimes been represented as culture with a capital ‘C’ opposed to culture with a lower-case ‘c’.

situation, in addition to the fact that IPR is hinged on the ethic of ‘possessive individualism’, prevents local communities from gaining collective credit, protection or recognition for their collective cultural resources. Otherwise, the only other alternative that protects the expressions of personal identity contradicts collective rights – the individual right instituted under one of the intellectual property rights (Handler 1985 cited in Coombe 1998; Macpherson 1962). Subsequently, if the State or a corporation does not receive credit for collective cultural resources, only individual (private) monopolies may be promoted. Departing from this, Coombe (1998: 226) notes the political obstacles that thereby face local and traditional communities who seek to stake joint and collective sovereignty claims over cultural resources:

Denying the social conditions and cultural influences that shape the author’s expressive creativity, we invest him with powers of expropriation and censorship in the name of property. Representing cultures in the image of the undivided possessive individual, we obscure people’s historical agency and transformations, their internal differences, the productivity of intercultural contact, and the ability of peoples to cultural express their position in a wider world.

Clearly the milieu, the relationships, the processes, the derivatives, the traditions the collectives or the ‘systems of signification’ are overlooked when individuals gain reward for an isolated product of joint efforts. Individual rights are therefore exclusive rights that can slice through the collective, cross-fertilizing processes that gestate cultural and intellectual resources. While the AU Model Law may seek redress for this concern, the so-called ‘community rights’ of local communities still cannot possess equal weight to the individual rights or the rights that legally recognize collectives. This is because any ‘community right’ granted by the State Sui Generis Legislation will, *de facto*, only gain usage (*usufruct*) rights for communities relying on plant genetic and cultural resources. This is because although the Model Law stipulates that community members may restrict the circulation of their resources if it is “detrimental to the integrity of their (the local communities) natural or cultural heritage”, it is therefore highly unlikely, with the State managing the circulation, that it will see itself as “detrimental” and thereby restricted from access (AU 2001: 10).²⁴ Hence, the AU Model Law collapses the collective rights of local communities and individuals into the State so that national identity, sovereignty and patrimony is consolidated at the expense of any local communities’ identity or interest. Collective rights, therefore, are only good as far as they allow a national or corporate stakeholder to profit over intellectual, cultural and plant genetic resources.²⁵ The ‘collective rights’ of local communities subsumed by the State are thus relegated to the marginal arenas of customary law.

Customary law

The gap in rights available for local communities in Zimbabwe’s National Sui Generis Legislation will be met with customary law, norms and practices. Yet, because Zimbabwe has already established customary statutes in its Constitution, it is likely that the prior interpretation of local customs will continue to be relied upon. Mamdani (1996), however, has raised a concern about the basis of all African customary law. His research established that many of the customary statutes present in African constitutional law today served the interests of the previous colonial government. Therefore, it remains questionable whether customary law statutes are authentic

²⁴ It is understandable that the AU member states assume jurisdiction over these collective or community rights because international law only recognizes two types of collective entities: transnational corporations and the states themselves.

²⁵ Zimbabwe’s National Sui Generis Legislation recognizes also a subset of community rights, called ‘community intellectual rights’. Yet, this formulation extends rights only to traditional professional groups who may function as legal entities similar to trade unions or corporations.

representations of tradition-based communities, especially in a contemporary sense. An alternative to this heavy reliance on the frozen statutes of customary law would include participatory approaches that could reveal contemporary customary or “jural norms” (Radcliffe-Brown 1964) composing the local ethics and guides which evolved amongst group and individual practices, behaviors and relationships. Amongst the Shona of the past Holleman (1952) had showed customary practices and moral norms to provide traditional parameters to “good” and “bad” behavior.²⁶ Yet, today it is not evident that these same customary practices and moral norms offer a genuine representation of local communities interests, practices and concerns over cultural resources like traditional medicinal knowledge. This concern is worth redressing if the ‘a priori’ practices of local communities are to be truly protected as a cultural resource in National Sui Generis Legislation. This scenario draws our gaze back to how these ‘a priori’ practices can be made legible without freezing only certain interests as has customary law statutes. While Zimbabwe’s National Sui Generis guidelines outline a plan for ‘traditional resource rights’, it remains unclear what is the scope of practice or resources to be entitled, as we will see.

Traditional resource rights

The most suggestive of entitlements for customary and local communities to their cultural resources in all of the legislative documents are ‘traditional resource rights.’ These are to be organized as a “bundle of rights” which supposes that individual, intellectual, cultural, community and property rights all must be available to traditional communities (Posey and Dutfield 1996). Zimbabwe’s Sui Generis Legislation stipulates that this means that the local communities have ‘traditional resource rights’ that give them (Chitsike 2001; 13):

- 1) The right to self-determination
- 2) The right to land
- 3) The right to indigenous knowledge
- 4) The right to participate in decision-making

Unfortunately, as I have previously outlined these rights are not aligned with present forms of legislation pertaining to cultural resources. Hence, the merger of any of these above rights, along with intellectual, cultural, community, customary and property rights is not an easy one to resolve on the ground. For instance, if customary practice does not make cultural resources a “property”, then granting intellectual property rights negates the customary cultural rights. Further, the ‘a priori’ right of self-determination cannot be realized unless local communities are not already subsumed with the State. Abundant, ethnographic material has shown how this is a continuing concern for local communities, especially when national development plans, or special, professional or private interests, conflict with these communities own interests (Ferguson 1990; Fairhead and Leach 1996; Gelles 1998; Lansing 1995). Appadurai (1990), for instance, argues that indigenous knowledge of local technologies (*techne*) may become obsolete if it is not continually practiced, enacted and reproduced. He asserts that the conditions for this includes forced cooperation with an alternative, applied knowledge such as that of a Western “expert” whose knowledge entails development schemes. Furthermore, anthropologists such as Kirsch (2001) and Merry (2001) have found that communities may prove “culture loss” and “damages” in courts of law when it is expressed in economic terms. From this vantage point, it seems that entitlements objectifying specific traditional practices as economic technology (*techne*) may provide the only refined and sensitive instruments that may be translated into a system of protection.

²⁶ Holleman (1954) and Chavanduka (1979) document that these ethics have been upheld by the traditional council, *dare*, of elders, traditional healers, spirit-mediums and the chief and the chief’s headmen.

Direction of fieldwork

Because cultural resources, like traditional medicinal knowledge, are not apparently material, intellectual or commercial resource, it is critical to view them also as lifestyles, practices and services needing rights to renewal. A cultural right to reproduce them, hence, would not entail an exclusive property right. Instead it would outline entitlements to specific practices rooted in custom and generating cultural symbolic systems that benefit local social (not legal) collectives

It is evident, therefore, that a comprehensive understanding of the prior customary ways in which traditional medicinal knowledge has been practiced and protected in local Zimbabwean communities is needed. My fieldwork undertakes this endeavor specifically by tracing how traditional medicinal knowledge is accessed, kept, used, shared and valued in ways that link and maintain an entire social system of traditions, rituals and relationships in Zimbabwe. However, colonialism, modernization and globalization have already impacted the unity of this system. Therefore, I will analyze some of these changes through various national urban and cosmopolitan interests diverging in practice from customary ways. It will be critical to look at these practices before assessing how one may formulate various forms of entitlements to local cultural practices for Zimbabwe's National Sui Generis Legislation.

CHAPTER TWO: Zimbabwe's Traditional Medicinal Knowledge System

Know where you came from: the ancestors of birds are in the nest. ~ A Shona Proverb

Centering the system

As we have seen, traditional medicinal knowledge is a cultural resource that is mostly regarded as the unclaimed “universal heritage of mankind”. Hence, with the exception of the African Union’s Model Law, the specific territorial and ‘a priori’ practices pertaining to traditional medicinal knowledge are not even addressed in the legislation pertaining to it. Yet, as with scientific knowledge, ethnographic material shows evidence that local communities definitely possess ‘a priori’ politics, relationships, practices and processes that may either nurture or resist the use of traditional knowledge as a resource. Indeed, Bourdieu (1993: 30) maintains that cultural resources are sown in a “field of cultural production”. The cultural artifacts produced in such fields are those dictated by a community’s ‘codes of consecration’, which provide parameters on the access and circulation of them. Further, implied “systems of signification” assist local actors in wielding, negotiating and controlling access to these resources as symbolic goods within the given cultural field (Coombe 1998: 8). Therefore, not everyone gains equal access to or benefit from cultural resources. Instead, in kin-ordered societies, symbolic capital can often accrue primarily to individuals, families and groups that inherit cultural and symbolic resources.²⁷ This inheritance defines an inalienable, *a priori*, right for an individual, family or group to use, restrict use of, benefit from or share these resources (Weiner 1992). This finding supported by numerous anthropological demonstrations showing cultural goods circulate within lineages, fields, regions, or cultures where they have been consecrated previously (Malinowski 1922; Mauss 1954; Weiner 1992). Like, symbolic capital, it is theorized that this circulation returns status, honor or dignity to individuals in a particular cultural field through a special “keeping-while-giving” strategy (Weiner 1992: 63). Cultural resources have thus been viewed as symbolic goods, symbols and heritages that are restrictively circulated. Yet, the practice of the knowledge, *praxis*, creating such cultural goods should be considered the root resource.

In Zimbabwe, this should also be the case, especially as the traditional medicinal knowledge (TMK) in this country is mostly known internationally for its biological healing properties. Yet, anthropologists Reynolds (1996), Gelfand (1962, 1966, 1988) and Chavanduka (1997) have previously explored the traditional medicinal knowledge in Zimbabwe as a cultural resource necessary for various cosmological, ritual or social purposes. In fact, the consecration of TMK use by several communities is not based on whether or not healers have the biological herbal knowledge or another variety of TMK (Chavanduka 1997).²⁸ Rather, Gelfand (1962) demonstrated that Shona communities confirm and consecrate individual healers who prove they have a spiritual patronage. He explains that the process of proving one has a spirit begins when an individual cannot be cured of an illness. It is believed the individual is not cured because a spirit, a *shave*, has possessed them and wishes to be recognized first. To recognize the spirit, entails a family ceremony establishing a special distinction for the individual as someone on whom the *shave* wishes to bestow certain knowledge (Ibid: 65).

When a spirit (shave) selects a person as its medium the future host falls ill, but he fails to respond to ordinary measures and a n’anga is consulted...A Mutambo ceremony is

²⁷ In the “good-faith economy” individuals, in family units, accumulate symbolic (cultural) capital and reputation via economic exchanges that demonstrate moral favoritism for immediate affines. See Bourdieu (1977).

²⁸ In my own research, many patient-consultants whom I accompanied while they were seeking healing did not care whether their cure was herbal, social or spiritual as long as it was, *kushanda*, an effective cure.

held outside the hut if the person improves for that particular spirit (shave). Others with similar spirit (shave) are invited and the songs and drums for that shave are invited. Months later, relatives and friend attend a ceremony where the medium is possessed by the shave for the first time.

The selection of spirit-possessed healers is an example of a ‘code of consecration’ that ensures that the majority of those who use TMK do so through spirit possession. Therefore, Chavanduka (1997: 27) documents that even though an urban populace may first seek medicinal herbs as a cure, healers with a spiritual status are the elite healers whom the community has consecrate first in TMK usage. This interaction then firmly routes the TMK system around those healers who practice TMK with spiritual symbolism and rituals.

On the other hand, Reynolds’ (1996) work with traditional healers proposes two additional findings regarding the circulation of the TMK system. First, while the common healer-apprentice, *n’anga-makumbi*, relationship is between an elder affine and a child, it is the veneration of deceased elder affine, as an ancestral spirit, that continues to make the TMK accessible to an apprentice. In dreams, the relationship with elder affine and the traditional medicinal knowledge continues to reach the apprentice (this practice will later be shown to have important implications when I examine why TMK is used only by individuals who meet certain ‘criterion of authenticity’). Secondly, primary TMK secrets are normally only revealed in part during crisis situations (Ibid: 11). It is as if the strategy of ‘keeping-while-giving’ treasures documented in Melanesia could also apply to the power of specific Zimbabwean herbal medicines that are kept in rare circulation (Weiner 1992).

Because of the previous century of modernizing and privatizing development forces, however, customary practices may be found near future social turbulence in Zimbabwe (Bourdillon 1976). Yet, to date, no anthropological contribution clearly addresses the continuity and change in TMK practices in light of the new potential IPR or legislative conscriptions. Indeed, no model exists to plainly explicate how TMK circulates ‘a priori’ to the planned Sui Generis legislation. Nonetheless, such a model should be prerequisite to forming any new protocols of protection in Zimbabwe’s National Sui Generis Framework. This is especially as the bridges between general Constitutional law and customary law are not always accurate or fairly drawn (Mamdani 1996). Even Holleman (1952: 34) has found customary practices that could be salient to the protection of TMK today. Amongst the Shona, some objects such as cattle or the spirit-medium accessories have a “reproductive value” that calls for individual ownership. On the other hand, items used for direct services and consumption such as food, tools or shoes are shared collectively. Such a separation of ‘spheres of exchange’ is typical with African prestige items, as Piot (2000) clearly reveals. Yet, traditional medicinal is called internationally the “heritage of mankind” and/or a “community resource”. The coming section will counter this conception as we will see that traditional medicinal knowledge is intimately attached to practice, first, and the general spiritual and social values of the community, second. I will present the basic symbolic meanings of TMK before revealing the most salient practices in an outline of how it is accessed, kept, used, shared and valued.

Local terms of traditional medicinal knowledge

Language is a community possession that individuals subsequently expand upon or manipulate in creative ways (Leach 1976). The most profound and complex symbolic term may have its meaning altered when it is widely circulated in cosmopolitan settings. For example, communities in Zimbabwe and South Africa use the term “*muti*”, for a tree or tree medicine, to refer to the plant substances used in traditional medicinal knowledge and sold in street markets in the metropolis.²⁹ As a result of the wide circulation of this term by merchants throughout sub-

²⁹ Definition taken from Dale (1981).

Saharan Africa, *muti* is now a mundane and derived term applied to any healing substance, including non-plant mineral or animal substances. Yet, a more specific and profound term used to refer to some of these substances is “*mishonga*” (plural). This is a Shona term applied specifically to TMK substances that are also deemed to be “magical”.³⁰ To say “*Mishonga ChiShona*” also asserts that these magic/medicines belong customarily to the Shona.

Further symbolic associations of TMK include the term, “*hun’anga*”, which refers to TMK techniques incorporated into the practices of the *n’anga*. This term refers to all of the practices associated with *n’angas’* efforts in divining, healing, working with natural sources, performing rituals, analyzing illnesses, and meeting community expectations. Also associated with TMK, yet identifying the deeper cores of its repertoire, is the term “*mapipi*”, referring to the intuitive logic behind traditional medicinal knowledge as a whole. *Mapipi* is different for every single traditional healer, *n’anga* because it is composed of all the accumulated experiences, practices, insights, rationales and confidences gained in lifetime of dealing with TMK (particularly the “*godorbori n’anga*”) as we shall see.

Starting with this term, *mapipi*, the symbolic resources of traditional medicinal knowledge is possessed within the core repertoire of an individual’s memory and experience. Outside this central core embodied in the *n’anga*, general TMK symbols are disseminated through traditional healers in his or her practices, the *hun’anga*, that builds, creates and renews the common cultural and symbolic field. While outlining unified cultural field and symbolic system of identity, experience and understanding has been a common ethnographic endeavor, the following sections of this paper will outline how the contemporary TMK custodian’s customary and non-customary practices selectively determine the circulation of TMK. Without the custodian’s praxis (knowledge informing practice and practice informing knowledge), TMK does not activate, imbue or reproduce the overall TMK system, which benefits many (Bourdieu 1977). Therefore, I will proceed to highlight how TMK is a cultural resource of particular practices - accessing, keeping, using, sharing and valuing TMK –responsible for the active reproduction of customary relationships, values and rituals. I will begin this by addressing how TMK is accessed.

Accessing the ancestral gift

“*My mudzimu show me the plants in my dreams.*” - Interview with healer in Manjolo District, Zimbabwe.

“*There is a part of African culture that is understood but also a part that no one can know unless you are a mudzimu (ancestor).*” ~ Interview with a Zimbabwean *Mbira* (thumb piano) Player, Montréal, Québec.

The relationship of the individual to his or her family determines his or her access to traditional medicinal knowledge (Reynolds 1992). Elders, *sekuru* (male) and *ambuya* (female), who are *n’angas*, select assistants who appear humble and discrete from amongst their younger kin to be assistants and to learn TMK. In a situation fairly unique to Shona and Bantu cosmologies, the death of elder does not cease the apprenticeship and the assistant continues to have an important relationship with the spirit of that elder/ancestor, *vadzimu* (or, another type of spirits, *shave*, that the deceased elder may have had a relationship with).³¹ While the relationships

³⁰ Although none of the previous literature reviewed addresses the Shona term “*mishonga*”, it was evident from my informants that they used this term to mean both medicine and magic. A Professor of African and Shona Folklore Emmanuel Chiwome, from the University of Zimbabwe, confirmed my observations (personal communication, July 2001). However ‘*mishonga*’ is not commonly spoken of, especially in English, because it has associations with the “magic”, “superstition” of colonial and missionary persecution. Therefore this term cannot be found in Shona-to-English dictionaries including Dale (1981).

³¹ In both the Shona and Bantu cosmology, the spirits of elders (ancestors) continue to be accessible even after they are no longer living. See Gelfand (1963) and Turner (1976).

with various spirits, *shave*, are important, the healers emphasize that this ancestral relationship is their primary avenue of access to full TMK.³² My informants spoke of the following lines of communication that they must practice to keep the spirit relationship alive and subsequently the access to TMK ongoing: (1) in communing dreams, (*kurotswa*) the individual is visited and spoken to by the *vadzimu* and the *shave*;³³ (2) when one becomes half-consciously possessed (*kusvikira*) by the *vadzimu* or the *shave*, they are given knowledge; and/or (3) through prayer and appeals (*kupiwa*) directly to the ancestors or the other spirits. In these restricted channels of access then, TMK resembles a family trade secret passed down from generation to generation. In this case, however, TMK is also a family gift or heritage given only to an individual. In fact, because it is accessed through a spiritual and/or family privilege certain family and spiritual obligations are attached to the traditional healer as well, as we shall see in the section to come.

Keeping intuition

The term '*kuchengetera*' means to keep safely and securely. With regard to TMK, this means it must be kept in the family. To confirm the importance of this fact, several informants said that in the past, a *n'anga* assistant, the *makumbi*, could be either severely punished or exiled from their family if they shared the TMK with the members of other families, even if that member belonged to the same clan or totem.³⁴ For an individual *n'anga*, *kuchengetera* demands a conservative guardianship accompanied by a keen and acute sense of appropriate timing. To keep safely, *kuchengetera*, emphasized again and again in my interviews, seemed to be critical because it implied that the custodian must save the knowledge for rare and crucial occasions (Reynolds 1992). My own informants repeated several times that a healer never offers his or her TMK services upfront, even when another complains of sickness. The TMK guardian will only unveil aspects of his or her TMK when the sickness seems desperate and no other common treatment has been offered. This personal practice of discretion helps a healer reserve and distinguish themselves within an elite sorcerer's circle of TMK guardians who are popular enough to not need any form of advertisement.

Therefore, while there are many elders, former healer's assistants, prophets and herbalists who may be familiar with the general aspects of TMK, only the most consecrated *n'angas*, such as the "*godobori n'anga*", compose a circle of individuals expected to possess a *mapipi* that guides his or her TMK techniques, *hun'anga*, choices of *mishonga*, and appropriate delivery times. It is the *mapipi*, as the personalized intuition and logic that set these individuals apart, yet it only begins to be tangible in the individual's expression or enactment of TMK in rituals.³⁵ Particularly when this TMK enactment is judged to be "*kushanda*", or effective. Therefore, keeping this *mapipi* is synonymous with keeping the flexible intuition of the effective

³² Some emphasis, however, is also placed on relationships with nature. Spirits of the forest, *varidzi resango* require separate acknowledgement. Success in finding *muti* and *mishonga* is dependant on acknowledgement of these spirits and their desires. Each *muti* can have as its own criteria attached to the way it is collected. The focus on the "desires" and "interests" of the forests, its spirits, *varidzi resango*, and the individual *mishonga* and *muti* requires specific practices of respect to maintain a relationship with the larger natural environment.

³³ A key distinction I learned from informants was the difference between regular dreaming (*kuropa*) and dreaming-communing with spirits (*kurotswa*). The latter is then a specially and spiritually sanctified action while the former is common to everyone. Certain specific symbols e.g. lions and appearances of ancestors are consecrated also as part of *kurotswa* although the receiver does not always know what knowledge they have received.

³⁴ Chieftain, totem, and family political rivalries in the past led TMK to be viewed as part of the group power or advantage.

³⁵ "Magic" is also like a trade secret as Harrison (2000) confirms. His work in Melanesia showed that the performance in chants, words, demonstrations and dance might be "magic" bought and sold like any other trade secret.

combinations of *mishonga* and *hun'anga*, timing, ritual performance, judgment of the surrounding social milieu and factors that may cause the illness. Hence, customary healers insist that the key TMK cannot be codified, made static or written down without accompanying errors. Therefore, keeping this approach demands that individual intuition, *mapipi*, becomes strengthened continuously and innovated constantly in ways that are rarely acknowledged or well understood by movements to “conserve” and protect TMK. This is because the TMK practices that could account for and apply to many of the complex factors in the social and cultural milieus as well as the physical and environmental milieu cannot be shared in one lifetime. The following uses and performances of TMK show this by providing instances of how TMK is continuously enacted in new and contemporary ways that remain most effective and powerful when practiced in context.

Using and performing aspects of traditional medicinal knowledge

The most valuable practices grounding a TMK custodianship are strictly embodied in an individual. Yet, the delivery of TMK services and rituals are selectively enacted for others in the community. These rituals, oral traditions, healing practices and oral histories all disseminate symbolic derivatives of the entire knowledge and practices of the *n'anga*, their *hun'anga*, their *mishonga* and their *mapipi*. During the sharing of services or rituals based on these three elements, there is always careful attention paid to what is revealed and what is not.³⁶ It is already established that the *mapipi* cannot be shared. Yet, the *mishonga* and the *hun'anga* are more vulnerable to indirect dissemination. Nonetheless, because TMK is a gift from the ancestors, a ‘*chipo mudzimu*’, several informants acknowledged that reciprocity for the gift is required (Mauss 1954). While this does not mean that TMK is a gift that needs to be circulated back to the spirits (in direct reciprocity), it is expected in the TMK system that aspects of the gift (namely the services) do circulate back to those in the spirits’ perceived interests – namely the immediate affines and the totem community.³⁷ Given this, TMK is viewed both as a possession and as a gift that the healer is possessed by. This is the case especially because the same dream channel, *kurotswa*, which accesses the knowledge of the spirits (and is kept open in practice to access more knowledge) can also receive reciprocal demands from the spirits for a response in ways that resemble a highly developed sense of conscience (Reynolds 1996). Several of my informants testified to this. One, related how his patron-spirit may harass him in his dreams if, for some reason he is miserly with his TMK services when someone needs them.³⁸ Some of the customary TMK practices an individual or community may “need” even in contemporary setting include the following:

³⁶ This is especially the case because the powerful aspects of TMK is like a family heritage, trade secret and spiritual gift that must be conservatively shared.

³⁷ It seems most likely that the immediate family is in the spirits first interests. Yet, allegedly because the family also is very close to the *n'anga* his or her cures cannot always cure an immediate family member. It might be conjectured that this is the case because the power of belief does not assist. Therefore, the healer must also heal the larger community in order to receive recognition.

³⁸ While TMK services and rituals based on Bantu spirit cosmology continue to be enacted, it seems they are simultaneously threatened by disbelief. While the reality of TMK emerges from the activation of the collective imaginary through continued reference and performance of the tradition in healing, as well as in oral tradition, there is an unreality of TMK applications that can be spoken of today. This is especially since the language of Shona tradition, magic and ritual is continually neglected in the modernist world of bureaucracy, science and media. See Durkheim (1961) While anthropologists and cross-cultural psychologists (Turner 1970; Evans-Pritchard 1976; Lambo 1978) are among the few who have translated the sophisticated rationality/reality of the social world of African healing, the methods and cosmologies of healing still carry the burden of the colonial, missionary legacies in addition to the neo-colonial “development” disregard for the past.

Rituals

“I brew beer (bira ceremony) to keep my spirits happy so they will continue to give me the (guiding) knowledge.” ~ Interview with a healer from Chirinda Valley.

Traditional medicinal knowledge has been used as a vehicle in almost all traditional African spiritual/healing ceremonies – whether as a good luck charm; for warding off evil spirits like the *ngozi*³⁹ (E. Turner 1992), *chikwombo*⁴⁰ or witchcraft⁴¹; as direct individual healing (Chavanduka 1997; Pearce 1993); as a ritual ceremony to further the healing, or for the power of a clan as a whole (V. Turner 1970); or even for the health of the environment.⁴² In most of these cases, TMK has the greatest effect in visual manipulations e.g. in individual costumery and performance, dancing, drumming, divining, playing the thumb piano, or the skillful wielding of the *mishonga* elaborated by the personal logic of an individual’s *mapipi*. Services based on *mishonga* and *hun’anga* are carefully dispensed along the way to boost the power of the rituals that heal and have social, physical and psychological effects. In these rituals the primacy of relationships with family (particularly the elders), the environment, the agrarian and pastoral elements and even the non-agricultural faunal life are all affirmed.⁴³

Magic

“The thing that must always be kept is this thing the African healer calls mapipi – it is the way they do their business.” ~ Interview with a ZINATHA Chairman from Chipinge.

“African healing is very superstitious, but that superstition can be a reality.”~ Interview a Zimbabwean Poet from Harare.

The performance, narration, perspective and potential surrounding magical objects are essential for the operation of magic (Leach 1976).⁴⁴ The custodian of magic skirts a fine line between a narrative that may be plausible and a compelling fiction. Depending on the narration, particular *mishonga* can be magical to some but would not be magical to others, including the wielder.⁴⁵ In the testimonies I gathered, a healer’s *mishonga* is credited with a wide range of capacities. The *n’angas* narratives about a *mishonga*’s capacity, for instance, offers them as symbolic guides and charms that support the local spirit-based cosmology that lives and experiences need not be confined by mundane realities. Examples of TMK *mishonga* powers that extend beyond what is considered ‘real’ include abilities for the following: (1) To be invincible, it is said that those who have the Mangoromera *mishonga* in them will remain physically unchallenged. (2) For conflict-resolution, a combination of plants is used to make a friend or lover happy after a dispute. It consisted of grinding and combining three roots and adding a small red seed. One is to bathe with this mixture. (3) To persuade, a young lawyer described a white

³⁹ The “ngozi”, is the name of a haunting spirit or bad conscience bringing illnesses to a relative a guilty criminal.

⁴⁰ The “chikwombo”, like a haunting spirit, demon, or conscience brings bad luck and misfortune to one who has become very successful at the expense of something or someone else.

⁴¹ One such “cleaning” ceremony clears witchcraft with a tortoise shell filled with water and *mishonga*, dipped in by an oxtail whip, a *nusque* that was sprinkled at various sites to chase the sorcery away.

⁴² This is not documented fully that I am aware of but two oral traditions I collected spoke of special spirit mediums who were able to retrieve both pesticide and fertilizer *mishonga* from a boiling hot spring.

⁴³ Ceremonies can still address rainmaking, pest-eradicating and/or domesticated animal problems. Male and female rainmakers, *manyosas* and *mbongas*, respectively are called upon in some of these cases.

⁴⁴ Magic is an index (a message-bearing entity) that stands for past, present or future activity with causes that cannot be verified (Leach 1976). Examples of performance confirming and construing ‘truth’ is shown clearly by Pearce (1993).

⁴⁵ See Pearce (1992) for an additional example in Africa of how this happens.

powder *mishonga* that could be used. It was taken either under the tongue when he wanted to be convincing in a law case, or under his toe, in a wrapper, and pressed on when he wanted to suppress the evidence of the opposing argument in a court case. (4) For profit, there are many tales of a small man, woman or child spirit, called a *chikwombo*, that can be evoked to bring success. Sometimes successful musicians or businessmen were rumored to have bought a *chikwombo* – but his or her success is often followed by misfortune if the *chikwombo* allegedly ‘seeks’ payment.⁴⁶

However, in each of these cases, important ritual practices to make the *mishonga* effective were carried out either by the *n’anga* or, the patient themselves under the healer’s instruction. Thus, while it is known that *mishonga* exist for these magical effects, the practices associated with preparing the actual substance and taking them is an esoteric aspect of TMK, the *mapipi*, which is only given or performed effectively by consecrated *n’angas*. The TMK *mapipi* resides in core intuition built by the same practices that disseminate ritual, services, narration, the *n’anga*’s techniques, *hun’anga*, and *mishonga*.

Justice

“When I say you will be creating more problems on yourself, I mean some people use remote control. You know what I mean? Else they use certain charms around it (a tree), or a string. I know they use something of that sort. If someone comes taking those fruits you probably will not score today, you probably will not move until that owner comes and finds you and starts negotiating with you. ‘Why have you been tampering with my tree? Did you not see the sign?’ He or she will have half a million ways of chasing you from that site. Sometimes you might be able to leave the area, but you will be feeling pains or ill of some sort. And if you know this, you’ll go back to that owner and own up and ask for forgiveness and then the apology is accepted and all is well.” Interview with a Rural District Councilor in Chaminkire Village.

Witchcraft in sub-Saharan Africa has often been closely tied to traditional forms of justice (Evans-Pritchard 1976). In Zimbabwe, TMK ‘magic’ *mishonga* is also a tool of so-called “witches” (Hove 1982) said to prevent the need for formal justice – through the *mishonga*’s “remote control.” This “control” represents the potential of a threat to those who behave in asocial, non-moral Shona behavior.⁴⁷ However, the person who is most often punished is the one who purportedly secretly used the “remote control”, because this is said to be the tool of a witch. Therefore the threat of witchcraft is both the preventative justice even as it can simultaneously call for justice.

Even though The Witchcraft Suppression Act (1889) is a lingering remnant of the Colonial administration, there are allegedly still witches that need to be discovered. In these cases, a ritual process of *kuuniswa* is held: *Mishonga* is given to accused persons, who will vomit if they are “witches”, have performed witchcraft, or are responsible for a theft.⁴⁸ If a “witch” is not identified, but is still suspected, cleansing ceremonies with *mishonga* are then performed. Antidotes to and barriers against certain social taboos and/or asocial and transgressing behaviors (all called ‘witchcraft), such as theft, gossip, adultery, mischief or malicious plots all require

⁴⁶ Other types of *mishonga* can be for: helping one remain in power as a president or chief; making one fall in love with another; making one do whatever another wants; to hear and find out what is going on in another person’s life; to have sexual intercourse with another without them seeing or knowing how it is being done, *mubobobo*; causing lightening to strike another; making another passive and malleable; or for making a male organ grow in size permanently.

⁴⁷ See Holleman (1952) for an ethnography on Shona moral behavior.

⁴⁸ If a ‘witch’ is not discovered but is still suspected, special *mishonga* with water “chases” or “cleanses” the residues of witchcraft with an oxtail whip. Evans-Pritchard (1976) work supported this material.

TMK *mishonga* (Chavanduka 1979). Only the consecrated *n'anga* may administer the use of *mishonga*, yet this administration is most often in accordance with the decisions of the customary elder councils, the *dare*, and their interpretation of the customs, *chivanu*.

Families and clans have often appealed to the *n'anga* if they want their own *mishonga* to carry out their version of justice. “Original *mishonga*” were passed down into family and clan powers used to strengthen and maintain these smaller factions against others.⁴⁹ Testimony indicates that *mishonga* for justice fall into the following categories: (1) *Mishonga* manipulated as a charm, poison or symbol to protect against witchcraft from other families or groups which may include: theft; causing lightening to strike a domicile; destroyed crops; illnesses; or causing barrenness in the women of the family; and (2) *Mishonga* manipulated as a charm, poison or symbol to gain an upper hand against other families or groups (kept within the family again) through the same forms of witchcraft listed above.⁵⁰ While this judicial traditional medicinal knowledge system may seem anarchic at first, the need for local tools, mediations, face-to-face negotiations and responses to transgressions, termed by Radcliffe-Brown (1939) a ‘jural norm’, is the key to maintaining confidence, harmony and survival in tightly interdependent communities.

Gift

“I cure first, then wait for payment later.” ~ Interview with an elderly female *n'anga* from Tilbury Estates.

“Ideal situation, you will treat that person, and if they get well, then he or she can come with a token of thanks. But you cannot turn that person away because they do not have money. Those that charge up front are thieves.” ~ Interview with an elderly male *n'anga* from Mountain Selinda.

A lag in remuneration for TMK services keeps customary relationships alive, especially when the *n'angas* still operate under the code of “cure first, expect payment later”.⁵¹ The privilege of paying later (delayed reciprocity) is one that primarily includes family and acquaintances in the nearby community. Yet, this makes the TMK practices a public good sympathetic with illnesses that do not promise immediate recompense for the *n'anga*. This is especially because the *n'angas*, as custodians consecrated by the community and the spirits, are designated to provide it this way. It is the *n'anga*'s status and privilege that commands that this be the case (they are harassed by their patron-spirit in their dreams if they do not).

⁴⁹ The oral history of one informant, spoke of “original *mishonga*” and “deep *muti*” that *n'angas* brought to the older chiefs and kings of Zimbabwe for powers and magic in fighting invasion of outsiders who were either Zulu groups e.g. the Ndebele from the South or British Colonialists.

⁵⁰ Although we see how knowledge of the *mishonga* is used for specific purposes, this section also is pertinent to how it can be kept. If it is used to consolidate family, clan or totem power, the *mishonga* will also likely be kept within the family. The consolidation of the power of *n'angas* and their families can also include various interfamilial injustices and manipulations. Other magical techniques involve combinations of animal and plant parts that can protect groups from lightening, bad crops, theft, witchcraft and ‘witches familiars’.

⁵¹ When cultural and social relations guide economic activities, circles of kin and acquaintances first special “good-faith” exchanges with each other are maintained. The “good-faith” entails certain moral and cultural expectations and privileges that restrict the circulation of a particular good being exchanged. Persons in immediate and intimate sets of acquaintances and relations gain special advantages with regard to that good while others must become ‘family’ first.

Sharing traditional medicinal knowledge

“The hun’anga (TMK practices) cannot be applied for.” A healer and sub-headman from Manjolo Communal Lands.

I have demonstrated in the previous sections that TMK rituals, practices, gift circulation and justice continually reenact TMK as practices in ways that connect the TMK system and form a social, symbolic field. This occurs when TMK practices fuel the spread of spiritual valences well as other Shona TMK and magical symbols. Hence, this field of beliefs common to the surrounding community integrates it further through rituals and relationships based on them. The symbols, ideas, narratives and ritual performances inform the community heritage, capture community imagination and make accessible to willing participants the basic potentials of TMK. As a heritage, even derivatives of a healer’s personal intuition, *mapipi*, can be the basis of and the spark for cultural institutions and interaction such as the *n’anga-makumbi* mentorships. However, the *mapipi*, the intuitive practices of the healer, the techniques, the *hun’anga*, and the actual properties of specific *mishonga*, are like trade secrets not regarded as general community possessions. Rather, these are shared as a special family heritage and right to a mentorship based on belonging to a family and maintaining a relationship with the spirits.

As shown in the section on accessing TMK, customary propriety says that only those individuals who continue to practice communication with the spirits can access the TMK gift and are thus supported in their authority over it.⁵² These are individuals who have undergone a mentorship as a *makumbi*, have begun to dream/commune, *kurotswa*, with a spirit, are legitimated through a special “coming out” ceremony for the healer, and follow the traditional codes on form and practice (Gelfand 1962). Therefore, if there is circulation of TMK, *hun’anga* or the secret properties of the *mishonga*, outside of individual healers or their assistants, the *makumbi*, significantly divergent social, economic and political changes must be occurring. As stated earlier, a *makumbi* could be exiled from the family if he or she shared TMK with others. Therefore, sharing TMK, whether it is the services or secrets, has always been customarily conservative, *kuchengetera*. Therefore, the function of this practice consolidates individual, family and clan power, yet still allows other community members to access aspects of and services from the core TMK a custodian embodies.

Valuing traditional medicinal knowledge custodians through symbolic capital

“Normally, in the community, there will be one n’anga who actually stays specifically for the mambo (chief).” ~ Interview with a sub-chief of a village in Nyahode Valley.

At that time the local community acted as a professional body in that the whole community was involved in validating a new healer’s qualifications as well as in disciplining those healers who abused their authority. Before a healer was allowed to practice medicine on his own, a graduation ceremony was usually arranged at which members of the public, particularly community leaders, were informed about the healer’s qualifications. ~ Chavanduka (1997: 1-2)

Standards that determine who is either a “good” or “mediocre” practitioner of any kind must evolve through the feedback of members in a cultural field (Bourdieu 1993). In industrial

⁵² I found abundant comment on how the spirits (*shave*) are credited for providing a person – a hunter, healer or leader, with their talent. Interestingly, I had also received testimony that the spirits (*shave*) can also cause odd characteristics - such as one who liked to eat dry maize cobs, or had others that compelled funny comedic behavior like acting like a baboon. One informant went so far as to say that there was an ambition behind drinking the Seven-days maize beer: In order to get possessed by a spirit-*shave*. In drinking, it is said the spirit (*shave*) may come out and tell you things.

countries these standards may become enforced either by law or by interest groups.⁵³ In Zimbabwe's cultural and symbolic field, these 'codes of consecration' (Ibid: 17) help determine who are the "good" TMK *n'angas* and/or the "bogus" TMK *n'angas*. In my research I found that generally many would like customary practices to still inform the consecration of the "good" *n'angas*, as "*godobori*".⁵⁴

Some *n'angas* I met had gained symbolic capital (Bourdieu 1993) for their TMK practices in the larger community. This is because while it is customary that TMK healers generally do receive some token payment (a goat, a hoe, a brass bracelet, or money) for their individual healing services, patients frequently cannot afford to remunerate immediately or in monetary terms.⁵⁵ Instead, the social, symbolic capital they may receive can be the "most valuable form of accumulation in a society" (Bourdieu 1977: 185) when it enables strategies for the future accumulation of wealth based on reputation (including monetary wealth). Since TMK is a spiritual gift, *chipo mudzimu*, it is a rare item that only certain persons may possess and subsequently only a few will gain social capital for it. It seems likely this would accrue to those who share TMK abundantly, but the most effective, *kushanda*, TMK is kept and given conservatively, *kuchengetera*. The possession of TMK then confers a spiritual/cosmological authority that is sometimes also convertible to a political authority. Indeed, *n'angas* are known to have gained important roles in the community as the chief's sub-headmen, clan leader, or councilor (Chavanduka 1997). Presently, these customary political roles also directly inform and interact with Rural District Councils who administer the State mandates.⁵⁶

Conclusion - lively practice

Zimbabwean folklorists Emmanuel Chiwome (1996) and Munashe Furusa (1996) emphasize the significance of customary practice and tradition through oral forms. Oral tradition is a "device" embedded in community philosophy (Ibid: 22). They postulate that oral traditions, including those associated with TMK, are integrated with abundant activity since it guides behavior and is responsible for the reproduction of values for much of the society. The following quote suggests oral tradition keeps cultural resource like TMK alive in the customarily appropriate people. The voice is that of a fictional elder councilor in the Zimbabwean novel, *Nehanda*, - which tells the story of a formerly consecrated and popularly remembered historical spirit-medium and *n'anga* (Vera 1993:89):

"Our elders have taught us the power of words. Words must be kept alive. They must always be spoken. The white man wishes to remain a stranger to us. It is not only important that a man speaks with words, it is also important what gestures he uses for his argument. The stranger has refused to sit among us...He says he has spoken. He carries

⁵³ One such international standard-setting organization is the *Codex Alimentarius* that is highly informed by the pharmaceutical and biotechnology industries in its biases against natural and herbal remedies.

⁵⁴ The codes for "true" traditional healers are complex and changing. I was told the *n'anga* that follows the traditional codes is given the name "*godobori*" in recognition of their difficult adherence to these codes. This means they heal using medicine/magic given by the spirit/*shave* whose wisdom and will is shown through their communing/dreaming (*kurotswa*), and/or traditional divining devices such as the *hakata* – carved wood or bones or rods that answer questions (*fembera*). Further they do not market their services.

⁵⁵ It is even considered a sign of a "bogus" *n'anga* if one charges before the patient is cured.

⁵⁶ If gender is considered with regard to symbolic capital it is clear to Chavanduka (1997: 47) that in addition to becoming a consecrated *n'anga*, there are special roles for elder women, called *nyamakuta*, or *ambuya*. Her special mid-wife role establishes her as an authority on women's issues, which is reflected also in the tribal councils. The *ambuyas* and *n'yamakuta*'s role is central to the rural women's experience, perhaps explaining why 54 percent of all healers are women (Chavanduka 1997). Customarily, however, women are not in primary positions of traditional authority as chief's sub-chiefs, or as clan-leaders. As *n'angas*, however, both men and women can be extremely influential as one of the chiefs' councilors, *machinda*.

his words in his palms, between his fingers. His words tremble with the wind. We will not surrender our words onto the side of a calabash which a child may break one morning. He has said that our words will last beyond several moons. Does he not know that there are other words for the future, plentiful like seeds? The white man held the paper like a sacred thing. His hands shook and we mistrusted him.”

This quote points to the idea that once words are written down they become objects attached with risk. In this view, the static documented state allows anyone, even a child or someone without individual intuition or knowledge of the words, to use or cite words callously since they “may break them one morning”. Thus, the implication is that if the written word is brittle, then the spoken word is flexible, alive and appropriate, especially if it is practiced with appropriate timing by consecrated authorities in a position to nurture the application of the words. With regard to TMK, the consecrated authority of the *n’anga* entrusts his or her with a responsibility for maintaining customary practices in their relationships and in their custodianship with the TMK. Since TMK is still practiced as a traditional heritage, individually inherited, kept safely and not delivered for commercial gain or profit, it maintains its symbolic power as an ancestral gift propelling the continuation of ritual and healing practices. These customary practices also maintain the bundle of relationships between the ancestral spirits, the environment, family and community that comprise the TMK system. While the community and the perceived will of the ancestral spirits consecrate the *n’anga* in these practices, the *mapipi* reveals that TMK is still primarily an individual possession. Therefore, the core of the TMK cultural resource is incorporated into the practices of the TMK *n’anga* who accesses, keeps, uses and shares it for his or herself, as well as others who value him or her. Yet, in the customary circulation activities of the TMK, the custodian’s core *mapipi* is still built upon or derived from in ways that still make it the foundation of new syntheses of cultural resources.

Furthermore, because the individual practices related to TMK pose the most resistance to the presumed image of TMK as a ‘common’ heritage, I will render explicit, in the next chapter, how the new non-customary practices based on TMK also show change and innovation that is both in conjunction and in divergence from the customary TMK system. It will also become clear that these non-customary practices have derived only some of the accessible aspects of TMK. Yet, these divergent practices are already occurring to such a degree that Zimbabwe’s cultural heritage can be seen to be both undermined and supported in a national field of cultural economy. This scenario will also shortly be seen to be critical to the assessment of rights and entitlements for Zimbabwe’s Sui Generis Legislation.

CHAPTER THREE: Non-customary practices with traditional medicinal knowledge

International agendas calling for ‘institutional reform’ to harmonize domestic arrangements with the international intellectual property regime (Rodrik 2000) would need regional allies to facilitate the abstraction, extraction and dissemination of cultural resources. The existence of such regional agents with divergent interests in, and practices with, the derivatives of traditional medicinal knowledge create both sites of vulnerability as well as the sites of resiliency in a cultural resources system based on TMK. This situation should be weighed for final considerations of how to distribute entitlements and rights to TMK practices in Zimbabwe’s National Sui Generis Legislation.

The Case of the African Potato

The following description is about one derivative of TMK used by non-customary agents. I adapted it from newspaper articles and my own research while in Zimbabwe and I will present it before I analyze what may occur as a result of this situation:

The African Potato⁵⁷, Latin name *Hypoxis Hemeracallidae*, was a ‘hot’ potato in Zimbabwe in the year 2000. The potato started rather nondescriptly, appearing alongside ginger as a remedy for stomach aches and other vegetables for consumption in some of the street markets in Harare - including the one next to the main public transport station on Union St. and Julius Nyrere St. Who first began marketing it for its ‘cure all’, ‘*gutchu*’ effects can not be known at this late date - so many *muti* merchants have been marketing it that way since seeing its increased popularity with the Zimbabwean public. Its’ popularity, stems not from its new notoriety as Roecar Holding’s patented source of active ingredients for curing cancer, but from citizens who have responded to the potatoes’ rumored anti-HIV/AIDS properties.

During the height of the potato’s popularity in the markets, some *muti* merchants, (none of them consecrated as healers, but allowed to sell medicinal plants in the street markets) began to display another tuber they also called the ‘African Potato’. However, the one the *muti* merchants were selling as “*gutchu*” was not the correct tuber. Accusations of fraud and concerns for public safety in diagnosis and use of the right healing ingredient resulted. The president of the Zimbabwe National Association of Traditional Healers (ZINATHA), Gordon Chavanduka, was forced to come on national television and distinguish between the bogus potato and the real, curative African Potato. Photos of the different potatoes were published in the national papers. Although Chavanduka did not reveal the full secret of what the potato cured, how to prepare it, or in what dosage it was safe to take it, it was evident to most of the population that the potato he identified as the “real” African Potato was a powerful medicine. Knowing this, Chavanduka insisted that consumers of the African Potato should consult a traditional healer for their health needs so they could be assured they were given the right *muti*. Only those healers licensed by ZINATHA themselves were capable of this according to Chavanduka.

Agents of separation

The interests of metropolitan, cosmopolitan, modern and outward-oriented individuals and institutions in the derivatives of TMK are different from the interests of customary ones. For instance, with the African Potato, *muti* merchants mobilize TMK derivatives for profit rather than for the symbolic valence of spiritual gift or, alternatively, because of a customary responsibility to

⁵⁷ Interestingly, the African Potato has no known Shona name that I could discover. Still, this *mishonga* seems to be popularly called the “African Potato” all around including in Zambia and South Africa.

local communities. Members of ZINATHA, ‘muti merchants’, the *propheta*,⁵⁸ and scientists who use traditional medicinal knowledge under an alternate set of codes therefore form a category of individuals whom I will call ‘agents of separation’. Each ‘agent of separation’ is sanctioned by either his or her membership in a non-customary group or by his or her official recognition by bureaucratic, legislative or urban support. For instance, *muti* merchants first gained municipal sanction to sell *muti* in ‘The People’s Market’ (Pendanazahmo) in the capital in 1970 while the Rhodesian government was still in power (National Archives, Appendix II). Likewise, in 1980 ZINATHA gained official recognition from the Republic of Zimbabwe which had then replaced the Colonial Rhodesian government (Chavanduka 1997).

Yet, both of these two ‘agents of separation’ pose a new interface between the practices that build the relationships and links of the healers and his or her community depending on the traditional medicinal knowledge system. This can be seen when ZINATHA identifies itself as the national political and economic authority of *mishonga* via the official media proclamations related to the African Potato. In this move ZINATHA also contributes to the displacement of the embodied spiritual and social authority vested in traditional healers. Therefore, while the traditional healer’s practice is tailored to meeting responsibilities in the local communities that consecrate them, ZINATHA looks to a different constituency for authority when it locates its official ranks and responsibilities to the urban poles first and the national level second. Hence, as a result of such interactions, ZINATHA’s president, Gordon Chavanduka (1997) notes several problems that may ensue in the future. He has given caveats against: (1) the professionalization of the healer’s practice (Ibid: 41); (2) professional disregard for spiritual medicines (Ibid: 27); and (3) the technical focus on herbal expertise that is dismissive of the ritual and symbolic milieu in which the herb is still used (Ibid: 30). The problem he considers is that,

There is an inherent danger that traditional medicine will be defined simply in terms of its technical herbal expertise, that this experience will in turn be recognized only for its empirical pharmacology, without reference to the symbolic and ritual matrix within which it is used – still less to the social matrix in which those rituals and symbols have meaning at any particular time and place (Chavanduka, 1997: 267).

As Chavanduka suggests, much of the ritual and symbolic practices forming the social matrix in the TMK system are in danger of being made obsolete through various professionalization and officialization schemes. Yet, is ZINATHA’s new political union with healers as members, adequate to represent the entire social matrix dependant upon TMK, especially as the core of TMK builds in individual practices and relationships in context? In many ways ZINATHA can consolidate the interests of healers because it has a membership 24,000 from all areas of Zimbabwe (Ibid: 26). Yet, what may come of the stakes of the communities who depend on the healers? Currently, ZINATHA is involved in several non-customary officialization schemes, including: (a) advertising and marketing the physical healing capabilities of the *n’anga*, (b) fabricating capsules of *mishonga* and selling them to the cosmopolitan and urban populace, (c) setting up two colleges of healing in the major cities and, (d) offering official statements and plans to media and researchers about HIV/AIDS.

While these developments may serve the interests of healers and those who wish to disseminate TMK, none of ZINATHA’s present activity is directly accountable to local communities or ensures that the TMK benefits will be disseminated to them. In fact, much of the new developments will intervene directly in the healers practice in uniting the TMK system. Particularly the right the community has to consecrate which healers and practices are “fit” will be undermined, as will the solidity of the healer’s practice that is non-commercial. However, while ZINATHA may pose some troubling questions for considering the protection of TMK

⁵⁸ A *propheta* creolizes healing traditions in Zimbabwe with his or her use of the Gospel in ritual and his or her attribution of God, *Mwari*, to the healing effectiveness.

resources that underpin the entire TMK system, Chavanduka's warning above is compounded by the activity of the *muti* merchants who directly threaten the non-commercial customary practice as they are becoming the new economic authorities of TMK, shown in their objectification of the Potato.

The following analysis I offer is partly derived from Marxist literature on commodity fetishism and reveals how the transfer of symbolic authority over the Potato liquefies its capital that had been previously kept by the healer as a reward for his or her customary practice of TMK. Consequently, the Potato itself appears to be instilled with the new and total source of value as a commodity. This analysis also suggests that as monetary value is established by private, exclusive groups or 'agents of separation', the rights accompanying that profit are more likely to accrue to those members of private groups rather than to the non-exclusive, socially ordained healers who appear to inhabit the 'common' public space. This is as we shall follow.

First. There is a reification of the meaning of the African Potato. Previously, the African Potato was one of many *mishonga* wielded in the healing repertoire of the traditional healers who typically offered it with prescriptive traditions and rituals. In the *muti* merchants' advertisements, the *mishonga* is "freed" from this. It appears no longer as a magic/medicine *mishonga*, but as a new medicinal commodity— a "quick fix" product, or pill you can pop for a quick cure of the symptoms. Yet, in both cases, the African Potato has symbolic inferences attached to it.⁵⁹ However, when 'agents of separation' access both the physical *mishonga* and the derivative of TMK,⁶⁰ they transfer the symbolic power to wield the *mishonga* from the traditional healers.⁶¹ In the practice of selling and marketing the merchants re-narrate the power to heal to the potato itself, rather than to the hands, narration, ritual and practice of the traditional healer (who draws out the *mishonga*'s power in customary forms of practice).⁶² The potato is then re-identified as a "magic" commodity that has been moved beyond the direct control of those *n'angas* who are responsible and consecrated in identifying and wielding its utility in practices that benefit an entire community.

This is important to note because while TMK has been perceived in development discourse as a static inherited information of natural healing substances, (a resource) Zimbabwean *n'angas* may see several utilities in *mishonga* like the African Potato that can change to fit different circumstances. Therefore, by freezing the utility of the African Potato, as Roecar Holdings did with its patent on it as a cure for cancer, the local roles in interpreting and variously wielding the utility of the *mishonga* dependant upon timing and circumstance can be made obsolete. The African Potato may indeed be a plant that possesses the power to cure several illnesses, however, by isolating the dosage, toxicity, and active ingredients of it, the various other potentials (including those drawn out through magical, ritual, psychological or social practices) of the *mishonga* to respond to other illnesses can be overlooked. This reductive approach to the healing power of natural medicinal sources has been partially avoided by the *muti* merchants,

⁵⁹ Whether it is the magic suggestion of TMK or it is the alleged utility in the potato that is effective it is assumed that it has been established previously.

⁶⁰ Technically, this derivative of information tells the utility of the *mishonga* and is the same as the trade secret, the *mapipi*, of a healer's knowledge.

⁶¹ This narration appears as dance skirting the line between fantasy and feasibility. And it the determination of what, is or is not, feasible is based on historical knowledge bases that could include oral traditions that are not always distinct from scientific theories.

⁶² This is usually the definition of commodification: the liveliness of services, human creations and/or the reproductive sources of nature become vested solely in an object that erases the history and genesis of it itself. See Mikilitch (1998) for essays on how this is viewed most commonly today.

however, who, like the *n'angas*, were astute enough to call the African Potato a “cure-all”, *gutchu*, hence, leaving open the option of what the Potato actually cures.⁶³

Second. The appropriation of even one derivative of TMK from the *n'angas* can exaggerate the alienation between the healers and his or her TMK field or community. The appropriation and transferal begins vis-à-vis the official recognition of *muti* merchants, ZINATHA and University of Zimbabwe scientists as authorities.⁶⁴ This is especially as the new popularity, visibility and accessibility of these ‘agents of separation’ is heightened by their creation of new schemes or channels of exclusionary access e.g. the media, the bureaucratization processes, licensing, or through the creation of a discrete private spaces and memberships such as in educational institutions or with licenses to sell *muti* in the markets. The access to and creation of private spaces and categories can gain visibility for ‘agents of separation’. This is illustrated by the practices of the *muti* merchants who have become better positioned to be recognized as entrepreneurs, innovators and creators of “novel” applications. Their practice and membership in exclusive spaces and categories e.g. the licensed markets as well as derivatives of TMK, also makes them appear more visibly deserving of rights that would not be extended to the *n'anga* in the TMK system because he or she is still viewed to hold a ‘public’ service. This is a misleading representation, however, because the *muti* merchant actually makes his or her service and product more “popular” and widely available, while the *n'anga's* services and practices still remain hidden from the modern, metropolitan or public settings.

Third. It is possible to notice traces of fetishism (incomplete or immature desires) in the individual potato (commodity) that has had its healing utility amplified by the attachment of the “cure-all” sign (Mikilitch 1998). There is now a risk involved for the patient/consumer who accepts an assurance of effectiveness from *muti* merchants who are both untrained and unconsecrated in healing knowledge. While the healer has had his or her power to wield ritual and magic through this particular *mishonga*⁶⁵ weakened by the competition of cheaper, easier access to some of his or her own prior material TMK, the potato has its power amplified as a fetishized, and more exclusively ‘modern’, capsule of power.⁶⁶ The potato (now a commodity) is attached to symbols that make it appear magical as part of an alternate, modern and “new” symbolic system’ where ‘objects of every culture’ reign.⁶⁷ The customary value that TMK and the *mishonga* is an ancestral “gift” for the healers and therefore also requiring a reciprocal “gift”

⁶³ Appendix I discusses that as TMK is a family secret, each family *n'anga* is expected to have a different repertoire of *mishonga*. Some may name the same *mishonga* for different illnesses or different *mishonga* for the same illness.

⁶⁴ This alternative system is characterized by the empirical burdens of proof that only the technological advanced may access. See Rifkin (2000).

⁶⁵ The *mishonga* appears as a ritual fetish, because the entire nature, power and technique of each *mishonga* as a magic is not revealed and therefore holds properties that make it highly desirable even if it is only the physical part that gets fixated upon. See Taussig (1993) for more on ritual fetishism.

⁶⁶ Mikilitsch (1998) suggests that the new marketing aspect of the potato can only be a “*satellite and alibi of exchange value.*”

⁶⁷ See Haraway (1997: 138) who writes of the untroped “culture of no culture”. I take a bit of liberty with her idea to extend it to the globalization also of objects of either ‘no culture’ or ‘every culture’. As Hannerz (1996) suggests, cosmopolitan movements are particularly important to examine. For instance, metropolitan and cosmopolitan areas of the world are increasingly be faced with objects that appear to be ‘objects of no culture’ or ‘objects of every culture’ e.g. the Hindu *Om* or Che Guevara’s visage on t-shirts sold in nearly every country. These symbols are then fabricated as cosmopolitan commodities. Baudrillard (1975) names the current commodification of symbols through information technologies the ‘simulacrum’ as derivatives of information, transferred from their context, may only simulate reality. The ‘reality’ of the labor of production, protection and consecration in the TMK system is not credited, but elements of it are simulated. For an object to appear as an “object of every culture” the packagers of it as a product must deny its lineage, custodianship or special rights and instead makes the artifact a *terra nullius*.

maintaining responsibility for the entire community is obliterated. At this point it is not hard to imagine the extension of a human-commodity-fetishism to even the traditional healers themselves once his or her practices and his or her images are exploited separately from his or her own agency in the TMK system. After the separation between healers and TMK is finalized, the authority transferred to merchants, political healers, pharmacists, and scientists, the *n'angas* could become an amusing relic of the past, who are no longer authentic practitioners but may be still asked to perform a caricature of the traditions for new forms of ethnotourism.

Fourth. By using the name “African Potato”, the *muti* merchants directly present the Potato as a product with an either English, or cosmopolitan, pan-ethnic identity. It may seem apt in the capital that a new name would be used.⁶⁸ However, the English name is one that pulls individuals into non-Bantu languages. This is important to note because ideas like *mishonga*, *n'angas*, *mapipi* and *madzekirira*⁶⁹ do not and cannot occur in English without the translation casting superstition and doubt on their reality. Cultural concepts and language used by local ‘agents of separation’ in new settings can have displacing effects. This effect is much more than a mere modern symptom of hybridization or globalization.⁷⁰ The transport of TMK derivatives to the urban poles of power and officialization represents a relocation, competition, challenge and counter to its original customary and symbolic arrangements and circulation. For some *n'angas*, many who are not literate (Chavanduka 1997), this setting represents another space of exclusion where the ‘agents of separation’, as cultural brokers, may be legalized, formalized and popularized. Thus, the appropriation of derivatives of TMK can then also relegate the traditional healer, who is in obeisance with the customary codes, to remain strictly in the communal rural districts where social goods are seen as collectively owned. In this way, and despite the forces of globalization, the territorial customs and agents of TMK may become even more ‘territorialized’ or localized. Hence, they may be further marginalized politically in their prior and customary territories, while the metropolitan representation of ‘agents of separation’ are well positioned to gain exclusive rights to TMK for all of Zimbabwe.⁷¹

Testimonies of traditional medicinal knowledge system loss

I have sketched above some of the developments in mobility and modernity surrounding the African Potato that may lead to the disinheritance of authority and rights over TMK for *n'angas*. Yet, the disintegration of the TMK system, with its benefits for local communities, may already be occurring. Indeed, traditional practices can become increasingly obsolete, or “underdeveloped” with new ‘development’ schemes (Yapa 1989; Appadurai 1990; Sen 1981). It is also likely, that while the divergent practices of the ‘agents of separation’ represent an alternative to customary practices of *n'angas*, they also represent a challenge to the entire rural, and traditional fabric, especially because these agents have a powerful urban and cosmopolitan constituency supporting them. Further, since the customary authorities, rituals and practices do

⁶⁸ A capital is often a cosmopolitan meeting point and a ‘contact zone’ of many ethnic groups whose only common language often seems to be English. See J and J.L Comaroff (1992) for further material on “contact zones”.

⁶⁹ “*Madzekirira*” is the illness of insomnia, anxiety and restless daydreaming. This illness is one of the unique areas of TMK healing. Several informants believe only the *n'anga* can cure this illness.

⁷⁰ This is so because the prior century of colonial and missionary officials had demonized traditional healers and denied official recognition of Bantu languages already.

not possess the same constituency in the metropolitan areas the burden of proof upon their non-superstitious reality is heavier.⁷²

However, counter initiatives to what appears to be an inevitable decline to cultural obsolescence have sprouted elsewhere. For instance, testimonials of “culture damage” and “culture loss” have begun to establish legal precedents useful in translating the rights to custom in courts (Merry 2001). For instance, Kirsch (2001) has shown that litigants must demonstrate “culture loss” through reference to change in subsistence lifestyles or decreased capacity to live out cultural knowledge. In a case of environmental and cultural damages in the Bikini Atoll the judge found that remuneration for the litigants property is “whatever the property is worth to him,” (Ibid: 172). This focus on the profit/value of a ‘property’ to an individual is typical of the ‘property for personhood’ argument wielded to gain sovereignty for indigenous peoples who have no titles on a land or territory.⁷³ The more difficult task lies in determining how culture, tradition and custom can remain extant without being transformed into “property”. This raises significant debate over what are the significant indicators and sites of culture loss. Is it in the “heart and mind”⁷⁴ or is it in more tangible practice and orientation, the *praxis*?⁷⁵ In several of these cases, Kirsch (2001: 168) posited that dual registers - belonging to and being in possession of culture or traditional knowledge – carry strong testimonials that show equivalency to property and rights as well as responsibility and practice. Either way, the creation of a National Sui Generis could dismiss the need to combine insoluble economic rights and cultural rights which are more likely to be unique, and therefore, ‘sui generis’ to each other. In Zimbabwe’s traditional medicinal knowledge system, for instance, we saw that the TMK practices that wield symbols, magic, rituals, relationships and the spiritual valences are part of the engine of the entire TMK system, and to conscript out any of these elements with pecuniary terms would deny its lively connectivity to the others.⁷⁶ Yet, by linking TMK to the practice of it in a community, it can also be linked to economic subsistence or social subsidies.

For example, a former *makumbi*, now professor of African laments that knowledge comes and goes depending on its continued use and application since: “*acquiring the knowledge is easy, but it is just as easy to lose it without practice*”. While this professor chose to participate in the modern educational institutions for his livelihood, the loss of TMK practitioners indicates a threat to the local community dependant on them for health needs. Thus, loss can also be identified by a community member complaining of a loss of customs and practice of the customs, as is shown in a 1972 quote from Chief Chivero:

“Our world was a much better world than the present one because then we knew our traditions and customs. Today the tribes are mixed up together and it is difficult to identify oneself with ones’ own customs. Nowadays, no one has respect for anyone. They

⁷³See for instance, Radin (1987). However, this argument is an extreme position because it does not allow that persons who do not have private proprietary form can also have constituency e.g. in customary law or under legal alterity.

⁷⁴ Anthropologist Nancy Pollock testified that culture is in the “heart and mind”. See Kirsch (2001). Bourdieu (1977) on the other hand may suggest it is in the *praxis* - the knowledge/action and practices of a culture.

⁷⁵ All of these questions of course haul in many other anthropological concerns over identity. Which identity (gender, national, tribal etc) has the most at stake in culture, subsistence loss and/or identity? Both personal testimony and overall systemic shifts can show major cites of change that is occurring. The systemic approach reveals increasing obsolescence of whole subsistence and collective social institutions while the personal confronts us with individual damages akin to the possessive individualism ethic of private property.

⁷⁶ Although, in some places in Melanesia they have been traded. See Harrison (2000).

are all like the white people. No one respects customs. In the villages the men are no longer good old people who know their customs. They are as people in Harare (the Capital), where people do whatever they want with no regard to the feelings of other people. There are n'anga thieves. They are just stealing money from people. They are no longer the good and true n'angas we used to know. You'll be lucky to find one good n'anga, the rest are rubbish." (1972 Interview with Chief Chivero; National Archives of Zimbabwe).

This statement, while loaded with sentiment also highlights economic elements. The "n'anga thieves" who are "stealing money from the people" are called "bogus" n'angas charged with "loving money too much" because their TMK services seem to be about profit. Chivero's statement, recorded in 1972, also marks the beginning of divergence from customary codes by entrepreneurial healers corresponding with the first formal organization of traditional healers, the National Varapi Organization under Macheke Gombera in the early 1970s (National Archives). This reflects the general frustration of a community being forced to face increasingly fraudulent n'angas who are not accountable to the local, customary codes. Yet, is this confrontation with fraudulent n'angas representative of a tangible economic loss that could be upheld in court, especially, if we are lacking a legal framework that recognizes a community right to consecrate their traditional healers? As we have seen in the section on the 'agents of separation', what may be a "loss" for a community can be another individual's political, scientific, religious or entrepreneurial opportunity. It is thus that the escape of traditional codes and expectations can carve an innovative service that may still provide certain other non-customary urban interests. Noting these divergent interests typical of most democracies it is difficult to speak about an 'absolute loss' that affects all Zimbabweans. Nonetheless, the issue at hand is still the preservation of cultural resources and the right to practice the TMK that many rely on. Currently, as I have shown in the previous section the TMK system still benefits many, including persons who may not be able to gain as much benefit under a privatized health care institution (Navarro 1976):

"But those nurses and doctors use those tablets that are not theirs. They are from the Ministry of Health. As an individual one can feel pity, but if they do in the clinics they will get fired or sued. No one can listen to you there." ~ From an interview with an elder (*sekuru*) and n'anga from Manjolo Communal Reserve.

It is as if it is assumed that empathy is contradictory to the economic equations of efficient institutions.⁷⁷ Thereby, some illnesses are called "external" to the clinic's "job" and therefore accrue these costs to the patient.⁷⁸ Nonetheless, the community right to keep health and social supports must be weighed simultaneously against the rights of 'agents of separation' who appropriate TMK and use it in fulfillment of their political or economic rights. The testimony I gathered confirms that many healers do continue to meet these community rights by maintaining that TMK is an ancestral and spiritual gift and hence it is also either a duty, service, talent or privilege that should not have a pecuniary valuation placed on it.

⁷⁷ However, the effectiveness and efficiency of health services in Africa in particular have not been adequate to meet the needs of the populations. See Yong, Millen, Irwin, Gershman (2000).

⁷⁸ One of my informants who had been diagnosed with "madness" sought to get better service at a private clinics deduced that his long list of bills, the new appointments for testing and the new headaches accompanying his "treatments" were becoming effective, *kushanda*. However, the quote above by the elder, *sekuru*, shows that healers realize that the traditional code of "cure first" regardless of an individuals ability to pay, is worth something. Value is tangible especially in the contrast between the existence of sympathy and its absence, especially when there is a new monopoly on the types of available health services available.

In the continued embodiment of the customary ideal, healers are the most sensitive to potential threats to customary TMK use, suggesting an insolubility of their TMK practice with other knowledge spheres or schemes based on economics. For instance, consider the words of spirit-medium, *svikiro*, healer and elderly female, *ambuya*, of Chaminikire Village:

“If I change the way the mishonga are used the svikiro-spirits and ancestors will not be happy and they will not show me the mishonga the next time. The supreme beings will be angry and they do not want to punish people but they can even bring hunger and bad luck of some sorts, thus we need to conserve these traditional herbs. It is not proper for the muti to be changed and used to suit certain other conditions. When they take it from me here will mean I will not have access to this medicine.”

As she concludes, “access” is crucial. Yet, *Ambuya* implies that she, as an individual practitioner, would deny access to those with intentions of changing the *mishonga* to “suit other conditions.” This is because, as she forecasts, if it were otherwise she will not have access to the transformed medicines. Presently, this *svikiro* is consecrated in her access of TMK because she engages in the required relationships with both the local-rural community and her ancestral spirits. These are her primary relationships and provide the orientation she needs to help her to fully embody the knowledge through the practice of accessing, keeping, sharing, using and obtaining consecration. *Ambuya* is also one of the powerfully ordained *godobori n’angas* and as such, she is ritually possessed by a mediumship between the community, the spirits and the greater natural environment of *mishonga*.⁷⁹

Her statement therefore raises the question, can the practitioners of TMK (spirit-mediums and *n’angas*) co-exist with another system that has different codes, ‘other conditions’ and values determining its operation? Time and space overlap between the spiritual TMK system and the politicized, mercenary system of the African Potato, ZINATHA, scientists of the University of Zimbabwe and the *muti* merchants. Further, the dynamics of each are different: the tightly woven TMK system remains based on sacred, family, spiritual and magical practice that requires a conservatism, yet opposes the modern system that funnels TMK derivatives centrifugally outwards so that the benefits do not always return to the source.

Ambuya also predicted the value of her *mishonga* declines if it is used outside of her custodianship. In this view, she may be prescient to note that her “gift” will not be reciprocated under non-customary practices i.e. there will be no responsibility to return benefits after outsiders access the knowledge. It is inevitable that issues of access to TMK and benefit-sharing of the products drawn from it need to be examined with special regard to rural and local communities. Yet, other traditional authorities are also wary of other practices and seem to agree that there is an insolubility of the customary principles based on the spirits particularly with the urban mercenary interests:

“Traditionally, long back, the whole thing (traditional medicinal knowledge) was not supposed to be commercialized. But because of changing times it is happening. That ultimately, traditionally, I’m saying is not appropriate. This thing of healing and all those things do not really come out of your own initiative. There are resident spirits, masvikiro

⁷⁹ It seemed in my interviews that this *svikiro* and *ambuya* takes her consecrated position in the community as well as her mediumship of the ancestors very seriously. Her relationships, guided by traditional codes and the valence of TMK as a spiritual gift, *chipo*, provide a strong compass for her role. When she is being exposed to ‘modern things’ it can distract her orientation because they are part of a different, non-traditional schema. She testifies that this effect throws her off. She told a story of how when she smells someone with cologne or receives clients who are eating oranges her spirit, *shave*, will make her go into a coma. On one occasion, she recounted how when her clients were eating oranges and did not warn her she went into a coma that lasted half of the day. Statements like this suggest that mixing the modern with traditional for some truly traditionally-guided practitioners, *godobori*, is like mixing oil and water.

who are on you and they do not really like to be commercialized.” (Interview with the sub-chief (*subuku*) of Tilbury Estates).

This quote from a village headman, the *subuku*, suggests that the traditional community authorities, in addition to *n'angas*, still see TMK as an item without a price, especially because TMK is attached to spirits⁸⁰ who “do not like to be commercialized.” In the customary view the spirits, TMK, *n'angas* and *svikiros* are all intimately related and viewed as inextricable essences. Clearly, TMK is primarily a symbolic spiritual treasure, heritage and practice that is an inalienable possession, needing a separate sphere of exchange and circulation, or at the very least, separate and unique forms of protection for it.

Conclusion

The practices of the traditional medicinal knowledge system fuel not only Zimbabwe's cultural economy but also aspects of its growing information economy as represented by the ‘agents of separation’ who use derivatives of TMK for political, mercenary and academic purposes. Hence, these derivatives are used, synthesized and manipulated in new ways that are not always attached to the customary practices. This is especially the case as democratizing access to information resources and services has more popular support by bureaucrats and urban Zimbabweans entertaining non-customary lives (Deve 1996). However, as non-customary practices dissolve aspects of the customary TMK authority, practices and codes, it is important to recognize how specific entitlements to cultural practices may be incorporated in Zimbabwe's National Sui Generis Legislation to preempt ‘culture loss.’ The following chapter addresses how this can be practically applied.

⁸⁰ Recall that this attachment is the foundation of the knowledge access – through processes of *kurotswa*, *kusvikirwa* and *kupiwa*.

CHAPTER FOUR: The cultural right to practice traditional medicinal knowledge

Africans felt guilty about the inferiority of their culture. This complex allowed them to be deprived of the rest of their human rights like franchise, nationality and the satisfaction of human needs. ~ Chiwome (1998; Preface).

Young urban Zimbabweans sometimes call the things of their cultural heritage “*uri saga*” for “boring”. Yet, whether Zimbabwe’s Shona and Bantu heritage is popular or not, traditional medicinal knowledge is still the source of highly valuable research and development for products of foreign pharmaceutical companies. Further, as we have seen in the prior two chapters, the utility of TMK, both in the derivatives and the overall repertoire, is released not solely in TMK products, but primarily in the practices of its contemporary agents, customary and non-customary alike. Additionally, in both chapters I showed that the material substrates of TMK are active when attached to the practices that wield symbolic meanings, rituals, assumptions and strategies of TMK delivery. Therefore, this chapter will review Zimbabwe’s National Sui Generis Legislation in its likelihood of protecting TMK (under its composite plan for intellectual, plant genetic and cultural resources) as a substance viewed as alienable from TMK practices. The conclusion of this review will be that this alienating approach, with its lack of focus on contemporary cultural practices, poorly justifies the neglect of local customary and non-customary interests and practices. On the contrary, these practices need to be recognized distinctly in an effective ‘sui generis’ framework that guarantees entitlements to both cultural and community rights over their genetic, cultural and intellectual resources in context.

Initial goals

The African Union’s (AU) call to its member states to create ‘sui generis’ protection of intellectual and plant genetic resources was embraced by various scholars, non-governmental organizations and development agencies for national application in Zimbabwe (The Nyanga Workshop). Initially, it had been determined that the National Sui Generis Legislation must identify a “legally enforceable right that will exclude others from defined commercial acts or acquiring remuneration for certain uses of genetic material” (Chitsike 2001: 10). It was also expected that the National Sui Generis Legislation must define both what can be protected and the scope of protection e.g. what entitlements are to be granted (Ibid: 10). It is envisioned this is possible if the state realizes that it (Ibid: 13),

Must recognize customary laws, norms and practices in the management of biological resources. Communities must also participate in the formulation of policies and legislation that affect biological resource for which they are responsible.

In order to implement this, however, the customary practices of the local communities, ZINATHA, both regional merchants and transnational pharmaceutical corporations, and both local and foreign scientists needed to have been made legible, ‘in situ’, to the bureaucratic body, the ‘National Competent Authority’, scheduled to oversee the legislation. However, whether there has been adequate translation of the customary roles, interests and practices of local agents and communities as well as other regional interests and practices is questionable, as a dispute over the *Swartzia madagascariensis* plant reveals...

The case of the *Swartzia madagascariensis*

The isolation of the active medicinal ingredients of the *Swartzia madagascariensis* was the joint research efforts of scientists from a research team from Switzerland’s University of Lausanne, the University of Zimbabwe (UZ) and ZINATHA. While the scientists at the

University of Lausanne arranged to share a patent on the derived information with a United States pharmaceutical company, both ZINATHA and UZ scientists were left out because it was argued that they did not contribute to the requirements of a “novel” or “industrially-applicable” product that constitutes a patent (Biotech Trust 1999). However, because a contractual agreement existed, both neglected parties had had the legal right to dispute the actions of the foreign scientists.⁸¹ Yet, the individuals (many of them illiterate) responsible for the customary practices that both generate and maintain the base of TMK have had no framework with which to establish their claims. Indeed, under the industrial property rights frameworks in country (established by ARIPO) none of the parties to the agreement needed to be accountable to the local customary interests over their cultural resources related to plant genetic resources.⁸² That political, economic and intellectual rights exist for private citizens has been assumed with the industrialization and development goals of the State. Yet, there is little to no grounding to dispute whether a customary heritage may even be considered property or not.⁸³

The cultural right to practice

Zimbabwe’s draft National Sui Generis Legislation authored by L.T. Chitsike (2001) upholds traditional resource rights (TRR) as the primary framework of protections. Yet, since the TRR framework combines intellectual property rights with other forms of community or cultural rights for local communities, it becomes a concern how this can be done legibly without coercing the combination of two “fundamentally different legal systems” (Mohamed-Katerere 1996 cited in Magaisa) and possibly further undermining one. For example, if TMK is viewed as a property, the customary and ‘a priori’ practice of circulating it conservatively (or not at all) may be undone by pinning on it a definition that entails an alienable and ‘free-trade’ status. Alternatively, by defining TMK property forms, the customary practice of ‘keeping-while-giving’ TMK that accumulates symbolic capital for the healers disseminating TMK benefits to the greater community could be frozen for particular individuals without ensuring community rights are maintained. This is especially as the individual economic liberty to circulate TMK without customary restrictions or practices would deny that TMK is attached to a duty for the larger community participating in the TMK system. Further, if customs of the TMK system are to be relied upon to create entitlements, then we must recall the caveat Mamdani (1996) gave against a singular reliance on customary law that has misrepresented customary norms as frozen laws of the past.

Yet, the customary TMK system is not easily regimented because the practices and relationships construe the customs as it is enacted. Recall that TMK access begins through the special relationship with an elder kin who is a *n’anga* and continues in his or her assistants’ dreaming and divinations. This lively cycle continues with the consecration of individuals with a responsibility for TMK and is confirmed by the insistence by many informants that TMK must be held conservatively, “*kuchengetera*”, as an individual spiritual gift that is effective only when the timing and circumstances are appropriate. As there are non-monetary incentives for circulating

⁸¹This case was taken from a speech by Andrew Mushita (Commutech Officer) at the National Workshop on Intellectual Property Rights for Biotechnology. Harare, Zimbabwe. Biotechnology Trust of Zimbabwe (BTZ). Sept. 4-5, 2001. His speech was A “Case Study: UZ versus Lausanne University for the Medicinal Plant, *Swartzia madagascariensis*.” The US pharmaceutical company benefiting was a branch of Pfizer.

⁸² Industrial intellectual property rights such as patents, copyrights and trade secrets are already guaranteed under the African Regional Intellectual Property Organization (ARIPO). While the inclusion of biological resources such as medicinal plants requires new rights formulations, standard intellectual property rights already protect pharmaceutical corporations and scientists who create “novel” and “industrially-applicable” products.

⁸³ The concept that some possessions are inalienable and not property that may be bought or sold is outlined as “market inalienability.” See Radin (1987). In Zimbabwe, while “communal lands” may be shared there is still a framework for them to be made alienable as property.

TMK in practice such as the continuation of customary relationships, with elders, ancestral spirits, kin, community and elements of the environment, the responsibility attached to the privilege of practicing TMK is built into the system. Further, when TMK is enacted in ritual, it reproduces cosmological symbols of the gift, magic, treasures and spiritual patronage for others in ways that constitute a collective identity (constituency). The community affirms their benefit when they confer symbolic capital, status and prestige on *n'angas* who formulate a strong intuition of TMK based on relationships with the elders, and the spirits. Hence, when these particular relationships of the TMK system remain alive and significant, TMK is not only a cultural resource that is regulated in customary practice, but it also “construes” custom and customary practice (Geertz 1983: 215). This is especially as each relationship, ritual, practice and performance based on its customary use must vary slightly according to the circumstance, milieu, environment and so on. Yet, while these customary practices based on TMK are still being reproduced and construed in everyday use, the basic parameters of its appropriate customary use might be seen to constitute an ‘*a priori*’ system of cultural production, reproduction and regulation.

Therefore, the “cultural right to development”, stipulated by the UN Covenant on Social, Economic and Cultural Rights (1996) might be made legible through the delineation of the co-existing cultural practices. After recognizing the cultural practices that should enjoy protection, individuals who practice them might be allotted an entitlement to practice. This encapsulates capacities to continue the special embodied practices the consecrated *n'angas*, spirit-mediums, *makumbi* and other traditional authorities, men and women, as community leaders engage in.⁸⁴ Taken as a whole, these practices provide the basis of a protocol that may fulfill the promised protection of an ‘*a priori*’ collective right under AU Model Law.

Entitling practice

The following outline of practices that deserve to form a protocol of entitlements should be taken as preliminary. Therefore, obtaining either the approval or suggested modifications or additions traditional and new Zimbabwean TMK authorities as well as communities might add would be prerequisite to the finalization of guidelines by the ‘National Competent Authority’ (scheduled to undertake Zimbabwe’s National Sui Generis Legislation). The following sketch of practices are those that should be a cultural right and therefore entitled with State supports, ‘*a priori*’ decision-making power, a lease on TMK benefits, rights to restrict practice and TMK, and the State recognition of *usufruct* (user) rights in all the practice of accessing, using, sharing, keeping and valuing TMK. The scope deserving to be included in this protocol extends also to non-customary practices as well. Hence,

(1) Customary TMK custodians should be entitled with an ‘*a priori*’ cultural right to maintain his or her consecrated relations of first access to the TMK that has not entered the ‘general use’ domain. The ‘general use’ domain would include any derived *mishonga* or TMK that has been released already, either to ZINATHA, or the *muti* merchants or any unconsecrated, non-customary party. The aspects of TMK that have not entered the ‘general use’ domain will typically rest in the *mapipi*, the personal, intuitive and innovative repertoires of individual *n'angas*. Any parties interested in researching TMK not yet available vis-à-vis the ‘general use’ domain, should apply to the customary TMK custodians, *n'angas*, (who are the heirs of TMK as a spiritual and family gift). This means the customary TMK custodian is granted the preeminent authority to determine whether or not they wish to personally help release the secret aspects of TMK. This could be facilitated by ‘an application for access.’ Scientists, members of ZINATHA, *muti* merchants, foreign aid bodies, and State ministerial bodies may access aspects of TMK

⁸⁴ See also Posey and Dutfield (1996: 157-60) for this guideline as well as others contingent upon on-site context.

‘application for access’ which could form the basis of contractual agreements the TMK custodian might help name the terms of. This ‘application for access’ should provide the customary TMK custodian with an informed consent that would detail (i) the applicant’s interest in the TMK e.g. for general research, for product development, *ex situ* database collections, or for a ‘National Remedy’⁸⁵, (ii) any obligations or contracts prior to the application that may take precedence over obligations or agreements to TMK custodians and communities, (iii) plans for TMK product reproduction and the planned scope of distribution if it extends beyond local communities, (iv) a proposal of how the applicant intends to return benefits to the individual first and the community second.

(2) Customary TMK custodians should have a cultural right to safely keep, *kuchengetera*, TMK according to his or her own practices, intuition, rituals and discretion. This should be conceived of as an individual, private and ‘*sui generis*’ right that recognizes the inalienable nature of a TMK custodian’s *mapipi* and *hun’anga*. Needs associated with healer’s capacity in this regard should take precedence to other non-customary interests including those of ZINATHA, the *muti* merchants, the State and University of Zimbabwe scientists. This right must take precedence over the others because the customary TMK custodian has a historical customary social contract with local communities for TMK service delivery that is established. To date, neither ZINATHA, the *muti* merchants, the University of Zimbabwe or even the scheduled “National Competent Authority” is adequately positioned to fulfill this responsibility directly to local communities. Hence, any plans to restrict or conserve TMK e.g. registries, storage facilities, or technologies should be directed towards a partnership with customary TMK custodian. A healer may thus work with other agents to either conserve or restrict TMK in these particular ways, yet these partnerships should recognize that the custodian’s right to restrict TMK for sophisticated ritual, spiritual and magic techniques take customary precedence before the encapsulation of his or herbal expertise.

(3) Customary and non-customary TMK custodians both should have a cultural right to use TMK for personal ends and subsistence. This would best be viewed as a user (*usufruct*) right that extends also to *muti* merchants or other urban and cosmopolitan Zimbabweans who presently use the TMK for general sale or practices. However, an entitlement to capacity should also accompany the rights of individual healers whose responsibilities simultaneously fulfill the community rights to health and culture. Each healer should therefore have a cultural right to access various endowments e.g. financial, political and educational, for themselves, for the communities they serve, and the practices they continue.

(4) Customary TMK custodians should have a cultural right to share their TMK that is not ‘general use’ TMK solely with his or her descendants if they so choose. An endowment for the kin-based mentorships that facilitate this sharing should be entitled and established. Or, alternatively customary custodians should be entitled to share his or her TMK based on customary interests that may include, (1) the responsibility to return the benefits to the community (2) to create products that do not result in profit, (3) or in exchange for various forms of support to continue cultural practices. Some derivatives of TMK, like the one attached to the African Potato, are already common to Zimbabwe. Yet, arrangements to test this derivative of TMK further might be had with any one of the regional agents, but it is likely the results will be most accurate and effective if this were done in consultation with customary TMK custodians.

(5) Customary TMK custodians have a cultural right to be valued in their heritage and custodianship of TMK. This could only happen if they achieved equal constituency as ‘agents of separation’ – the Zimbabwean scientists, merchants, and ZINATHA itself. Specifically, the *n’angas* and *spirit-mediums* need equal recognition from bureaucratic institutions, the media and urban constituencies as community spiritual authorities. However, so as not to undermine their spiritual and community roles, they should be entitled to funds as the living vessels and

⁸⁵ (Ibid: 159)

representatives of Zimbabwe's heritage. This recognition would amplify the duty the customary custodian already has to reproduce community cultural resources and subsequently the national cultural heritage as well.

(6) Customary community members should be entitled with a collective cultural right to benefit from the derivatives of a customary custodian's TMK. This means they have a right to rituals, healing and education services, as well as the cultural institutions that are equal to State and private institutions. This right is paramount to a right to choose, consecrate and vote for responsible and representative customary TMK custodians to be the individuals who provide these institutions. This must occur in a national to local arrangement because institutional supports for *muti* merchants, ZINATHA, and U of Z scientists already exist nationally. Customary TMK custodians however need that 'sui generis' recognition of their local community contributions in order to continue the TMK system that benefits many.

Conclusion

In conclusion, none of the current legislative options for protecting TMK (as a cultural resource reproduced by customary practice) are complete because none provide a framework to entitle specific 'a priori' cultural practices. To review, the most inappropriate, -intellectual property rights - are only granted to protect only product outcomes that subsequently profit only an individual 'creator'. In Zimbabwe, as we have seen, multiple parties contribute to the creation, and practice of TMK, and multiple parties should hence be able to benefit. Intellectual property rights are also inappropriate for on-site, 'in situ', protection because they are formulated solely to protect products that represent innovation and industrial-applicability in the private industrial domains. This formulation is thereby biased against cultural resources like TMK because, to reiterate, TMK finds its utility in cultural practices opposed to products. Further, collective rights cannot singularly capture or support the customary arrangements of TMK for two reasons; (1) a 'collective' is only the State or a corporation according to international law and (2) collective rights would presume that TMK is a social good and "common heritage" that may be indiscriminately be accessed, used, kept, shared and valued. Additionally, the bundle of rights constituting 'traditional resource rights' cannot be effective 'in situ' because intellectual property rights effectively annul most other non-exclusive rights that may rely on customary practice.

At best then, TMK is first defined as a prestige good that has customarily remained in a tightly restricted (within the family) sphere of exchange and circulation for local communities. Yet, for the customary TMK custodians it is more than a good, a gift, or even a resource, it is an embodied intuition and set of practices that need to be reproduced and continuously enacted to be tangible and real. However, also under this embrace of TMK as a cultural resource of practices, non-customary practices have been transforming TMK's inalienable prestige status into a more liquid resource for national scientific, political and mercenary ends. Both sets of practices therefore need to be recognized for assisting national and domestic needs. Yet, so that the customary practices do not become obsolete, entitlements to the specific customary ways TMK is accessed, used, kept, shared and valued must be granted to the customary TMK custodians – thus officializing them nationally just like the 'agents of separation' have had done already.

Therefore, Zimbabwe's Sui Generis National Legislation may meet the AU Model Law stipulation of an 'a priori' cultural right to use, benefit and restrict cultural resources, by finding the forms that preserve the related contemporary construing practice. A protocol like the one offered above offers the most appropriate long-term and unique strategy of preservation sought by the Sui Generis. The long-term effect of this strategy of entitlements to practice will be a re-embedding of a cultural authority over traditional medicinal knowledge in the territorial practices, relationships and individuals responsible for maintaining the reproduction of it as a cultural resource. The generations to come will be able to rely on this 'sui generis' approach because it also poses, ultimately, the only absolute resistance to the inevitable dispersing and alienating effects of the transnational pharmaceutical cartels engaged in free-enterprise globalization

supported by international legal conceptions and multi-lateral trade agreements. Particularly, because of its own deteriorating health situation, a nation like Zimbabwe cannot afford to allow the international agenda to manage its cultural resources like traditional medicinal knowledge before it allow its own peoples to do this. Subsequently, Zimbabwe's own people must be entitled and recognized as having a stake in their TMK practices by the nation that represents them.

Appendix I: Historically produced distribution patterns

This appendix proposes that the derivatives of TMK have been distributed outside of the traditional patterns. While there is no literature that examines or suggests these variable distributions, based on my observations and the oral histories of informants I have found that there are some categorical patterns of TMK *mishonga* circulation that may be of use in considering the National Sui Generis Legislation and entitlements. These are delineated and elaborated upon as follows:

Common *mishonga*

“We all have some of the magic. When your tooth is aching it will stop for a while. But some magic when you put it there it will get off completely. Sometimes I get it off myself. The clinic is very far. The tooth is very painful. I find something to help myself before I go to the clinic to get it off. I say let me use that magic. Because that time before it helped me. I had the magic myself.” ~ A mother of three, Tilbury Estates.

Common *mishonga* are most likely the parts of plants that accompany a common illness such as toothache, stomachache, headache, whooping cough, sore throat and malaria. These are more then likely known in full⁸⁶ by elders, and known partially by most of those individuals who have spent at least part of their childhood growing up in the rural areas. Broad familiarity with them is likely the product of both cosmopolitan movement as well as the transmission of the less rare traditional medicinal knowledge of most Shona elders. For instance I have found some of these *mishonga* in general health and pharmacy stores in the capital of Harare. They are packaged in forms both dried and whole, or in capsules.

Regional and specialty *mishonga*

“One can say “I’m going to Chipinge for you” when you want to tease and suggest that you are going to get a very powerful mishonga for revenge.” ~ A marketing executive, Harare.

Knowledge of some types of potent *mishonga* can be in specific vegetative regions or environments. They are part of the *n’angas* reputation the patients’ word of mouth can help market.⁸⁷ These are also *mishonga* that come from areas where *n’anga*’s competition with each other has increased their reputation in the region. Interestingly, two towns said to have strong *mishonga*, Binga, and Chipinge, are located in ‘contact zones’ near state borders.⁸⁸ Binga is found next to the marshes and wetlands along the Zambezi Escarpment where many of the Tonga interact with and speak with Zimbabwean Shona and Ndebele, Zambian Chewa, and Malawian Nanje. Chipinge is found in the highlands that straddle Mozambique and rests above South Africa. Both regions possess unique vegetation compared to high *veld* grassland and *kopje* granite outcroppings that characterize most of central Zimbabwe. The perception that these areas have strong *mishonga*, rather than strong *n’angas*, is a view a cosmopolitan might have of the entire region.

Totem *mishonga*

“TMK is a gift brought about by the shaves in my family, and it belongs to the family. It is just something that just establishes itself in the family and it cannot be taken away from the family.” ~ The Manicaland ZINATHA Official.

More specific plants and animal parts coincide with particular families, and their clan or totem. The family heritage has evolved in conjunction with the natural vegetative heritage surrounding their home compound, the *kumusha*. If one is the relative of specific

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n’anga from a specific area they should also have several *mishonga* in common. Recall Gelfands’ (1963) “coming out” ceremony detailed in Chapter Two. Knowledge transmission is monitored by members of one family and therefore becomes consolidated in the nearby locale. Each *n’anga* I interviewed would cite different sets of medicines, different sets of trees used and different specialties in healing. If it was in the highlands of Mozambique or Zimbabwe there would be a different set of *mishonga* then is used in the low-*veld*, or even on the Zambezi Escarpment. This I was able to see more clearly as a result of interviewing different *n’angas* from different areas of Zimbabwe, including some who

⁸⁶ In other words, the elders know and can identify the actual plant, the part to use, where to find them, how to prepare them and then administer them according to code.

⁸⁷ The patient marketing is characteristic of this system. In fact, a “good healer” called “godobori” will never need to boast or even suggest they have healing abilities.

⁸⁸ See Comaroff and Comaroff (1997) for elaboration of the characteristics of ‘contact zones.’

had emigrated from different areas of sub-Saharan Africa other than Zimbabwe. One *n'anga* from Malawi was only able to find similar medicines to the ones she had found in Malawi in a 2-hour drive north of Harare. As a result of these patterns, the locations of the *mishonga* needed could be as specific as 'one side of a *kopje*-hill where the large granite boulders are found.' This is because that type of plant only grows on such rocky surfaces where a lot of sun reaches it.

Reproduction and childbirth *mishonga*

Embodied and practiced specifically by elderly women *nyamakutas*⁸⁹, or *ambuyas*⁹⁰, this knowledge is passed inter-generationally among the women of a village, clan and totem. The utilities of these *mishonga* include the following: (1) for the pains and parturition of pregnancy; (2) to ease the child-birth delivery; (3) for the immediate health of the new-born child; and (4) the mothers' post-natal health. While there are some elaborate and specific knowledge about the appropriate ways for these *mishonga* to be administered that only these elderly women know, other reproductive information dealing with fertility, and abortions are possessed by male healers as well. Traditionally, many to-be and new mothers would not make many decisions for themselves or their children, without the consultation of the *ambuya*, or *nyamakuta*. If she did, it could sometimes be interpreted negatively by the *ambuya*'s divination of the interests of *vadzimu* and *shave* and would be brought before the tribal council, or *dare*, as a transgression.

Environmental *mishonga*

"There was once a famous spirit-medium and healer named Milila who had lived during the early Colonial period just outside of Binga (found near the northern border of Zimbabwe, and on the shore of Lake Kariba). In that time much of the surrounding region, which contained marshy, highly-desired land, had been confiscated by the Colonial authorities. As a result of said bad cultivation practices there was a drought.

In order to correct this, the members of the community held a ceremony, called a bira, to pray, praise and appease the ancestral and/or totem, mhondoro, spirits that might have been angry about the land confiscation. The ceremony took place at night with dancing, drumming and possessions outside of a sacred hot spring. During the evening, the famous Milila, feeling advised by his own spirits, dove into the hot spring⁹¹ only to come up again bearing several special mishonga. These included maize cobs to eat and seeds to plant, as well as several special charms and mixes for an insecticide on their remaining crops." ~ Story told by a *makumbi*, 23, Binga.

The environmental *mishonga* used to heal the environment can come from the same stock and sources as the *mishonga* used to heal people. In this case though female and male rain makers, the *manyosas* and *mbongas*, may specialize in this type of *mishonga* more specifically.

Magic

Chavanduka (1997: 9) gives us a definition of what strictly magical *mishonga* may entail:

Magic is an art of obtaining mysterious results by tricks. Although some traditional healers use some aspects of magic in the treatment of such patients, they cannot be described as magicians. Such healers also use medicines and other methods of healing besides magic.

This category of *mishonga* are potent yet secretive in their identity as well as the trick of their utility and effects. These *mishonga* are carefully activated and cultivated vis-à-vis an interaction between the patients, the performance, their results, and the feedback. Most of the identified types of magic *mishonga* draw heavily upon the customary, *chivanu*, forms of socialization that may be seen with the preventative justice referred to in Chapter Two, or the traditional and spiritual notions crucial to Shona and Bantu cosmology. Many of them are therefore heavily associated with the golden age of Zimbabwe, *pasichigare*, as follows.

Deep, original *mishongas*

In several oral histories, I heard of some *mishonga* originally used only by kings and chiefs during *pasichigare*, for the following reasons: (1) to remain in power; (2) to be able to fight opponents and remain

⁸⁹ The Shona name for a mid-wife

⁹⁰ The Shona name for grandmother, also the name of an elderly woman with status and respect who is often assumed to know the knowledge of the mid-wife, called the *nyamakuta*.

⁹¹ Many stories tell of underwater spirit-mermaids, called *njuzu*, that bring wisdom and gifts. Bodies of water hold special and sacred importance then. Water and likewise forests are therefore regarded with a bit of respect and some fear as they are believed to be inhabited by these spirits who can bring both gifts, but only through some costs to the person involved.

unchallenged; (3) to cause lightening to strike; (4) to overcome opponents; (5) as love potions and aphrodisiacs for a chief to attend to several wives sexually; (6) as women's aphrodisiacs, (7) as abortive medicines and (8) medicines to make woman appear virginal. These medicines are said to be the most potent and powerful of all the *mishonga* and therefore are known mostly by healers who have descended from a well-known or royal line of heritage. This was attested to by one such *n'anga*, who claimed heritage from the royal bird totem.⁹²

Extending *mishonga*

This type of *mishonga* is among the most secretive of the original *mishonga*. Sometimes called *mashiripiri*, for amazing things, they have come also from the king's or chiefs' medicines and are used to manipulate another person or the environment in one's favor so that luck in physical strength, power, love, sex, theft, hunting, musical, writing talent, monetary success, verbal success overcomes any obstacle. Some very successful *n'angas*, the *godobori*, have obtained several of these types of *mishonga* and have thereby attracted many popular, powerful and wealthy clientele, among them politicians, musicians and artists.

Protecting *mishonga*

Medicines used by families and individuals to protect themselves from theft, evil spirits, lightening, or bad luck can be preventative justice *mishonga*. An example is the *Muti wokupisira* - burned to discover a stolen item.⁹³ These are usually found in wealthy families with property and who intend to protect their assets. An informant spoke of how they would protect their house-compound, *kumusha*, from lightening that others may send because of jealousy, by placing broken eggshells around the perimeter. The threatening presence, imagined or otherwise, of harmful magic, *makona*, can also be protective and preventive by curbing the likelihood of transgressing behaviors. However, only the *n'anga* is likely in possession of this *mishonga*.

Innovated *mishonga*

Some individuals who have been exposed to traditional medicine but now reside in an urban setting have identified novel and useful medicines from their new milieu that includes an urban and technological environment. For instance, some *n'angas* have begun to use televisions as divining devices.⁹⁴ Others have used the powder of a battery for external relief of headaches. One informant suggested that *n'angas* with an *njuzu*⁹⁵ shave are more accepting of foreign and novel and are thereby more likely to incorporate modern things into their TMK repertoires and practices. Innovated *mishonga* clearly add to the value of the healer's repertoire in hybrid traditional-modern field, yet it is difficult to speculate their value scale on the international knowledge field.

Distribution, keeping and sharing patterns

Beginning with common *mishonga*, it is possible to see why the distributive patterns have evolved. Individuals with a common illness, e.g. cold, headache, toothache, or wounds are quickly told or shown a common treatment in an explicit and transparent way so that the sufferer may also later go and fetch a specific part of a specific medicine, know how to prepare it and then administer it.⁹⁶ These *mishonga* do not need to be dried or pounded for storage, *kachinkatwawanga*⁹⁷ and the administration of them is not part of a combination treatment and therefore less complex. Informants in both the rural areas and urban areas were able to cite these treatments.⁹⁸

Totem and family medicines, as has been demonstrated are directly shared with a younger kin. Traditionally, certain relationships are common: an aunt, *amai guru*, a grandmother, *gogo*, a grandfather, *sekuru*, or an uncle *baba mukuru*, will take one of their grandchildren or nieces and nephews, the *muzukuru* as a *makumbi*. The young children fetch and prepare the *mishonga* and the elders direct and dictate. This special family repertoire can often be a result of their origins in a particular environment. If these origins are the highlands of Zimbabwe then the *mishonga* will be different from the *mishonga* used in the low- grass (*veld*), or in the wetlands around the Zambezi Escarpment. I was

⁹² The bird totem, *neshiri*, is called royal because it was believed to be associated with the original Rozvi Empire who inhabited what is now the Great Zimbabwe Ruins that was decorated by these bird figurines.

⁹³ The smoke heads in the direction of the stolen item and the thief.

⁹⁴ See Reynolds (1992).

⁹⁵ The *njuzu* is considered an alien shave, because it is a mermaid and from a water world, not from the same place as elders who become the *mudzimu*.

⁹⁶ The transparency is evident because if the cure involves certain plant leaves, the direct use of the leaves, in a tea, or in porridge is demonstrated or spoken.

⁹⁷ Many plant *mishonga* are pounded in this ways so that their identity is obscured and remains a secret.

⁹⁸ These *mishonga* do not require elaborate ritual for their administration and therefore they are not the same as the valuable *mishonga* that has value in reproducing legitimacy and establishment of cultural, spiritual and cosmological authority. Holleman (1952) also writes of how prestige items have reproductive value and are therefore circulated differently.

able to see this pattern more clearly after interviewing different *n'angas* from different areas of Zimbabwe some having emigrated from different areas of sub-Saharan Africa other than Zimbabwe. One informant's oral history claimed there had been extreme consequences, including exile, for family members who revealed the trade-secrets" to a rival family. Moreover, these sanctions were said to have evolved from the rivalry of "magic-medicines" of the original chiefs, *ishes*, and *mambos*, kings.

The rivalries of then were the fuel for creation of ever more potent powers and magic said to be effective in manipulating the natural environment, other social actors and the outcome of events (Hove 1982: 9). This seems to linger today as one interview *n'anga*, who was also a *sadunhu*⁹⁹, charged fellow *n'angas* with both murder and witchcraft motivated by theft of another *n'anga's* secrets. It appears then that some *n'angas* do not see each other as peers, but as rivals in their efforts to gain highest consecration.

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Another oral history claims that many of the original *mishongas* had a highly gendered nature dealing with the traditional male domain in the following: (1) hunting success; (2) male virility and potency; (3) wife, and co-wife passivity¹⁰⁰; (4) uncontested power as a ruler; (5) and strength over any competitors in just about any given particular realm. However, it is not likely that only male *n'angas* possessed these special *mishonga*, as there are more female *n'angas* today, and many in the oral record as well. The *n'angas* would be the *gorobori*.

The other gendered *mishonga* deal with issues of sexual abstinence, abortions, childbirth, childcare and to some extent the appearance of virginity in women. This TMK belongs to the *nyamakuta*, often just called *ambuya*. As an exception to this domain being entirely dominated by female healers, I have also interviewed two male healers who specialize in curing infertile women, the "illness" being called *kuuchika*.¹⁰¹

I noted two protective *mishonga* that can be found in the *muti* markets, Mbare, Pendanzahmo and Machipisa, in the capital, Harare. The first, the *chifumura* root, is a common protection against witchcraft and at the same time encourages good luck. Interestingly this *mishonga* seems to cater simultaneously to two perhaps previously contradictory cosmologies – witchcraft and luck. Witchcraft was formerly believed to be the cause of bad things. While good magic was the cause of good luck. Previously, the notion of luck was considered "bogus" and therefore any *n'anga* who presented "bad luck" as causative agent would be accused of "not telling the truth". It seems that urban

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areas, as places of high uncertainty and high population density, draws many more events that are interpreted as bad luck, than in the rural areas, where "witchcraft" reigns still as a cause.¹⁰² The second protective *mishonga*, *dhupe* is less visible in the markets or in the rural areas. It is burned for bad dreams or to prevent *nezheshiri*.¹⁰³ I hypothesize that the first *mishonga* is more common because the name of it is the same as the name of the actual tree it comes from, while the second is created from a type of tar or crystalline substance that is not clear. This aspect that is not transparent is part of the *mapipi*.

There were three types of extending *mishonga* that *muti* market merchants sell frequently as follows: (1) an herbal male viagra, *vhuka vhuka*; (2) a female libido mixture, *kashuga*; (3) and a mixture for love, *zhaka mina*. Being very popular, merchants have given these *mishonga* names that do not identify where the actual natural source of its active ingredients are. Now that these *mishonga* have a reputation, they have, like the African Potato, begun to be spread more commonly through the markets. Nonetheless, the merchants I met in Mbare market did not often know where their *mishonga* comes from and instead got their supplies from a distributor.¹⁰⁴

Conclusion

Common and innovative *mishonga* are less attached to the *mapipi*, *hun'anga* and traditional and spiritual rituals than some of the *mishonga* that deal with family heritages and child-birth. These common types have the greatest circulation. As a portable derivative then the pace of its movement is rapid. The other *mishonga* are increasingly difficult to find or access because they are more tightly kept in ritual, consecration and communities by

⁹⁹ *Sadunhu* is the Shona term for the sub-chief of a rural ward.

¹⁰⁰ Zimbabwe has a history of polygamy.

¹⁰¹ This domain of malfunctioning sexual reproductivity would likely be a realm the traditional male in Zimbabwe would like to have some control over to ensure the appearance of heirs and continuation of the patrilineal line.

¹⁰² The urban, aseular, cosmopolitan and public spheres to which the *mishonga* have entered vis-à-vis merchants seem to accept luck, good or bad, but not curses or notions of magic.

¹⁰³ 'Witche's familiars', *dzangadzimu*, can be crows, or hyenas sent on a mission from a witch. Examples found in Hove (1982). The personification and interpretation of animals and the environment in this way is highly typical. For instance, Shona proverbs speak of hare and the baboon with character and agency and illustrate the fact that there the relationships with elements of nature are continued in oral and, now, written traditions.

¹⁰⁴ An *ambuya* distributes *mishonga* to *muti* merchants, yet keeps the details of the *mishonga's* physical source and its preparation to herself.

those who wish to keep the attached status - whether it is for their family, as a woman, or as a specialty. Being more rare the custodian of them would subsequently be in possession of more *valence*, weight, value and power that translates into symbolic capital than the other knowledge holders. The magic *mishonga* are among the most difficult to lift and unearth from their state of sedimentation in these knowledge holders. However, past colonial and missionary efforts to undermine the credibility of magic have and continue to shake the cores of *Mishonga ChiShona* custodianships. Finally, innovative and environmental *mishonga* are interesting because they haul more directly issues of utility, survival and necessity than do the acknowledged spiritual and symbolically rich magic *mishonga*.

BIBLIOGRAPHY

ABATE, Dejen

- 1996 "Information for Development, Democracy and Security in Southern Africa: An Overview of the Conceptual Framework" Maurice Lundu (Ed.) In: *The Political Economy of Information on Development, Democracy and Security in Southern Africa*. Harare, Zimbabwe: SAPES Trust: 70-106.

ACHESON, James

- 1994 *Anthropology and Institutional Economics*. Lanham, MD: University Press of America.

AD HOC COMMITTEE ON INDIGENOUS MATERIALS

- 1995 "Natural Product Drug Discovery and Development: New Perspectives on International Collaboration." *Journal of Natural Products*. 58 (9): 382-387.

AFRICAN UNION

- 2001 *African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders and for the Regulation of Access to Biological Resources*. Manuscript: African Model Law.

AGAR, Michael

- 1994 *Language Shock: Understanding the Culture of Conversation*, New York: Quill Press.

ARGAWAL, Arjun

- 2000 "Indigenous and Scientific Knowledge: Some Critical Comments," *Indigenous Knowledge and Development Monitor*, 3(3): 1-11.

APPADURAI, Arjun

- 1986 *The Social Life of Things*. Cambridge: Cambridge University Press.

- 1993 "Disjuncture and Difference in the Global Cultural Economy", *Modernity At Large: Cultural Dimensions of Globalization*. Minneapolis: University of Minnesota Press: 27-47.

- 1990 "Technology and the Reproduction of Values in Rural Western India", *Dominating Knowledge: Development Culture and Resistance*. Eds. F. Apffer-Marguin, S.A. Marquin. Oxford: Clarendon Press: 30-45.

APTER, Emily; PIETZ, William

- 1993 *Fetishism as Cultural Discourse*. Ithaca: Cornell University Press.

ARRIGHI, Giovanni.

- 1967 *The Political Economy of Rhodesia*. The Hague: Humanities Press.

AURET, Diana

- 1990 *A Decade of Development in Zimbabwe: 1980-90*. Gweru: Mambo Press in Association with the Catholic Commission for Justice and Peace in Zimbabwe.

BAK, Per; CHEN, Kan

- 1991 "Self-Organized Criticality." *Scientific American*. 264 (1): 46-53.

BAKER, Joseph T

- 1992 "Natural Product Drug Discovery and Development: New Perspectives on International Collaboration." *Journal of Natural Products*. 58 (9): 1326-1355.

BANNISTER, Kelly; BARRET, Katherine

- 2001 "Challenging the Status Quo in Ethnobotany: A New Paradigm for Publication May Protect Cultural Knowledge and Traditional Resources." *Cultural Survival Quarterly*, 24 (4): 1-6.

BASS-PERKOFF, Susan; MULLER, Manuel Ruiz

- 2000 *Protecting Biodiversity: National Laws Regulating Access to Genetic Resources in the Americas*. Ottawa: International Research Development Centre (IDRC).

BAUDRILLARD, Jean.

- 1996 *The System of Objects*. London: Verso Press.

- 1993 *L'échange symbolique et la mort*. London: Sage.

- 1972 *Pour une critique de l'économie politique du signe*, Editions Gallimard.
- 1981 *Simulacres et Simulation*. Paris: Galilee.
- 1975 *The Mirror of Production* St. Louis: Telos Press.
- BEACH, David.
1980 *The Shona and Zimbabwe 900-1850: An Outline of Shona History*. Gweru: Mambo Press.
- BERKES, Fikret
1999 "Role and Significance of 'Tradition' in Indigenous Knowledge. Focus on: Traditional Ecological Knowledge," *Indigenous Knowledge and Development Monitor*.9 (1): 1-4.
- BENDA-BECKMAN, Franz Von
2001 "Legal Pluralism and Social Justice in Economic and Political Development", *IDS Bulletin* 32 (1): 1332-1460.
- BERNSTEIN, Henry
1990 "Agricultural 'Modernization' and the Era of Structural Adjustment: Observations on Sub-Saharan Africa." *Journal of Peasant Studies*. 19(1): 3-35.
- BERTRAND, Agnes; KALAFIDES, Laurence.
1999 "The WTO and Public Health," *The Ecologist*. 29 (6): 365-368.
- BIOTECHNOLOGY ASSOCIATION OF ZIMBABWE and the BIOSAFETY BOARD OF ZIMBABWE
2001 *Biotechnology Awareness Workshop For Consumer Associations, Mass Media, Education, Health and Agricultural Extension Sector*. Manuscript: Harare International Conference Center. March 1-2.
- BIOTECHNOLOGY TRUST of ZIMBABWE
2001 *The National Workshop on Intellectual Property Rights for Biotechnology*. September 4-5. St. Lucia Park, Zimbabwe.
- BOURDIEU, Pierre
1993 *The Field of Cultural Production*. Cambridge: Polity Press.
1977 *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.
- BOURDILLON, Michael
1976 *The Shona Peoples: An Ethnography of the Contemporary Shona with Special Reference to Their Religion*: Gwelo, Rhodesia: Mambo Press.
- BRAGDON, Susan; DOWNES, David
1998 "Recent Policy Trends and Developments Related to the Conservation, Use and Development of Genetic Resources." *Issues in Genetic Resources*. 7 (June): 1-23.
- BROWN, Michael
1998 "Can Culture Be Copy-Righted?" *Current Anthropology*, 39 (2): 193-220.
- BROWN, Michael Barrat; TIFFEN, Pauline.
1992 *Short Changed: Africa and World Trade*. Boulder, CO: Pluto Press with Transnational Institute.
- BRUSH, Stephen B.
1989 "Bioprospecting the Public Domain." *Cultural Anthropology* (14): 535-55.
- CARNEGIE, David Rev.
1970 *Among the Matabele*. Westport: Negro Universities Press.
- CHAVANDUKA, Gordon L.
1997 *Traditional Medicine in Modern Zimbabwe*. Harare: University of Zimbabwe Publications.
1979 *A Shona Urban Court*. Gweru: Mambo Press.

- CHEATER, Angela P.
2000 "Globalisation and the New Technologies of Knowing: Anthropology Calculus or Chaos?" In Marilyn Strathern (Ed.) *Shifting Contexts: Transformations in Anthropological Knowledge* London: NY: Routledge: 18-32.
- CHEMICAL MARKET REPORTER
1999 "Pharmaceutical Industry Demands More Stringent Intellectual Property Protection." In *Chemical Market Reporter Journal*. May 24.
- CHERU, Fanta
1989 *The Silent Revolution in Africa: Debt, Development and Democracy*. London: Zed Books.
- CHITSIKE, L.T. and the IUCN and FAO (compiled by.)
2001 *Intellectual Property Rights and Genetic Resources: Guidelines for Developing Sui Generis National Policies and Legislation to Promote Community and Farmers' Interests for Southern Africa*. Manuscript.
- CHIWOME, Emmanuel M.
1993 *A Critical History of Shona Poetry*. Harare: University of Zimbabwe Publications.
1996 (Ed.) *Introduction to Shona Culture*. Harare: Juta Zimbabwe.
- CHOMSKY, Noam
2002 *Manufacturing Consent: The Political Economy of the Mass Media*. New York: Pantheon Books.
- CHON, Margaret
1993 "Post-Modern Progress': Reconsidering the Copyright and Patent Power." *DePaul Law Review*. 43 (1): 97-146.
- COCKBURN, Ian M., LANJOW, Jean O.
2001 "New Pills for Poor People: Empirical Evidence After GATT," *World Development Report*. 29 (2): 29-44.
- COLORADO, Pam
1988 "Bridging Western and Native Science." *Convergence*. 21 (2-3): 49-69.
- CONVENTION ON BIODIVERSITY (CBD), United Nations
2001 *Assessment of the Effectiveness of Existing Sub-national, National and International Instruments, Particularly Intellectual Property Rights Instruments, That May Have Implications on the Protection of the Knowledge, Innovations and Practices of Indigenous and Local Communities*. CBD Working Group of Article 8(j) Manuscript. Montreal: Convention on Biological Diversity.
2002 *Draft Recommendations for the Conduct of Cultural, Environmental and Social Impact Assessments Regarding Development Proposed to Take Place On, Or Which Are Likely to Impact On, Sacred Sites, and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities*. Montreal.
- COMAROFF, J.; COMAROFF, J.L.
1992 *Ethnography and Historical Imagination*. Boulder: Westview.
- COOK, Deborah
1994 "Symbolic Exchange in Hyperreality." In D. Kellner (Ed.) *Baudrillard: A Critical Reader*. Cambridge: Blackwell Publishers: 150-189.
- COOMBE, Rosemary J.
1998 *The Cultural Life of Intellectual Properties: Authorship, Appropriation and Law*. Durham; London: Duke University Press.
- CORREA, Carlos M.
2001 *Traditional Knowledge and Intellectual Property: Issues and Options Surrounding The Protection of Traditional Knowledge*. A discussion paper. Geneva: Quaker United Nations Office. .
2000 *Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options*. London: Zed Books.

- COWEN, Janet; DEMBOUR, Marie-Benedicte; WILSON, Richard. (Eds.)
 2001 *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press. Cambridge. UK.
- CULLET, Philippe
 2001 Plant Variety Protection in Africa: Towards Compliance with the TRIPS Agreement.” *The Journal of African Law*. (45) : 1-45.
- CRUCIBLE GROUP
 2001 *Seeding Solutions: Options for national laws governing control over genetic resources and biological innovations*. Co-published by the International Development Research Centre, International Plant Genetic Resources Institute and the Dag Hammarskjold Foundation.
- DALE, D.
 1981 *Shona Mini-Companion: A Guide for Beginners*. Gweru: Mambo Press.
- DAWKINS, Kristen
 1999 “Intellectual Property Rights and the Privatization of Life” *GeneWatch: A Bulletin of the Council for Responsible Genetics*. 12(5): 1-5.
- DEBORD, Guy
 1970 *The Society of Spectacle*. Detroit: Black and Red Press.
- DER DERIAN, James
 2001 “Simulation: The Highest State of Capitalism?” In D. Kellner (Ed.) *Baudrillard: A Critical Reader*. Cambridge: Blackwell Publishers: 189-224.
- DERGES, Anne
 1996 “Information for Cultural Equity in Southern Africa,” *The Political Economy of Information on Development, Democracy and Security in Southern Africa*. Edited by Maurice Lundu. Harare, Zimbabwe: SAPES Trust: 33-70.
- DETTER, Ingrid
 1994 *The International Legal Order*. Brookfield: Dartmouth Publishing Company.
- DEVE, Thomas
 1996 “Information for Economic and Social Equity in Southern Africa” In Maurice Lundu (Ed.) *The Political Economy of Information on Development, Democracy and Security in Southern Africa*. Harare, Zimbabwe: SAPES Trust: 18-33.
- DOLE, Gregory
 2001 “Mugabe fiddles as Zimbabwe Burns”, *The Gazette*, Montreal, Quebec, January 28.
- DURKHEIM, Emile
 1961 *Elementary Forms of the Religious Life, A Study in Religious Sociology*. New York: Collier Books.
- ECHENBERG, Myron J.
 2002 *Black Death, White Medicine: Bubonic Plague and the Politics of Public Health in Colonial Senegal, 1914-45*. Portsmouth; Oxford: James Currey.
- EVANS-PRITCHARD, C.
 1976 *Witchcraft, Oracle and Magic Among the Azande*. Oxford: Clarendon Press.
- FAHIM, Kareem
 5 “The Education of Mary Robinson UN High Commissioner on Human Rights” *The Village Voice*, NY, NY, April 24-30.
- FAIRHEAD, J. and LEACH, Melissa
 1996 *Misreading the African Landscape: Society and ecology in a forest –savanna mosaic*. Cambridge: Cambridge University Press.

- FERGUSON, James
1994 *The Anti-Politics Machine: Depoliticization in Lesotho*. Minneapolis: University of Minnesota Press.
- FOUCAULT, Michael
1980 *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977*, Colin Gordon (ed.). New York: Pantheon.
- FURUSA, Munashe (Ed.)
1996 *Introduction to Shona Culture*. Eiffel Flats: Juta Zimbabwe Pvt.
- FROMMER, Chloe
2001 *Bodies, Capsules and Fetishes: The Transfer of Control Over Traditional Medicinal Knowledge in Zimbabwe*. Montreal, Quebec: Centre for Developing Area Studies (CDAS) Discussion Paper Series.
- FRY, Peter
1976 *Spirits of Protest: Spirit-Mediums and the Articulation of Consensus Among the Zezuru of Southern Rhodesia*. Cambridge, Eng: New York: Cambridge University Press.
- GALATY, John
1989 *Seniority and Cyclicity in Masaai Age Organization*. In McGill University. Department of Anthropology. No. 6. Discussion Papers.
- GALEN, Doris
1983-4 "Internal Conflict Between Customary Law and General Law in Zimbabwe," *Zimbabwe Law Review*. 1 (2): 5-43.
- GEERTZ, Clifford
1983 *Local knowledge: Further Essays in Interpretative Anthropology*. New York: Basic Books.
- GELFAND, Michael
1962 *Shona Religion*. Harare: Juta and Company Lmted.
1966 *Psychiatric Disorders as Recognized by the Shona in Magic, Faith and Healing*. NY: Free Press.
1973 *The Genuine Shona: Survival Values of an African Culture*. Harare: Mambo Press.
1988 *Godly Medicine in Zimbabwe: A History of its Medical Missions*. Gweru: Mambo Press.
- GELL-MANN, Murray
1994 "Complex Adaptive Systems" In G. Cowan, D. Pines, and D. Meltzer (Eds.) *Complexity: Metaphors, Models and Reality*. Addison-Wesley. XIX: 17-44.
1995 "What is Complexity?" *Complexity*. John Wiley and Sons. Inc.: 17-19.
- GELLES, Paul H.
2000 *Water and Power in Highland Peru: The Cultural Politics of Irrigation and Development*. New Jersey: Rutgers University Press.
- GIBBON, Peter
2001 "Upgrading Primary Production: A Global Commodity Chain Approach" *World Development*. 29 (2): 345-363.
- GONCALVES, Fernando
1998 "The Politics of Land" in Zimbabwe Current Affairs, *The South African Economist*: 11-12.
- GOTTDIENER, Mark
2001 "The System of Objects and the Commodification of Everyday Life: The Early Baudrillard." In D. Kellner (Ed.) *Baudrillard: A Critical Reader*, Blackwell Publishers, Cambridge, Massachusetts: 25-40.
- GREGORY, C.A.
1982 *Gifts and Commodities*. London: Academic Press.

- GRIM, John (Ed.)
 2001 "Intellectual Property Rights and the Sacred Balance: Some Spiritual Consequences from the Commercialization of Traditional Resources", *Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community*. Cambridge: Harvard University Press.: 1-21.
- GUPTA A.; FERGUSON, J.
 1997 "Beyond 'Culture': Space, Identity and the Politics of Difference", *Culture, Power, Place: Explorations in Critical Anthropology*. Durham: Duke University Press.
- HANDLER, Richard
 1985 "On dialogue and destructive analysis: Problems in narrating nationalism and ethnicity." *Journal of Anthropological Research* (41):171-82.
- HANNERZ, Ulf
 1992 *Cultural Complexity: Studies in the Social Organization of Meaning*. New York: Columbia University Press.
 1996 *Transnational Connections: Culture, People and Places*. New York: Routledge.
- HARAWAY, Donna
 1997 [ModestWitness@SecondMillennium.FemaleMan-Meets](#) *OncoMouse*. New York: Routledge Press.
- HARRIS, Olivia (Ed.)
 1996 *Inside and Outside of the Law: Anthropological Studies of Authority and Ambiguity*. London: Routledge.
- HARRISON, Simon
 2000 "From Prestige Goods to Legacies: Property and Objectification in Melanesia." *Comparative Studies in Society and History*. 42(3): 662-679.
- HENDON, Julia A.
 2000 "Having and Holding: Storage, Memory, Knowledge and Social Relations", *American Anthropologist* 102 (1): 42-53.
- HO, M.W.
 1998 *Genetic Engineering Dream or Nightmare?* Dublin: Gateway, Gill & Macmillan Press.
- HOLLEMAN, J.F.
 1952 *Shona Customary Law*. Capetown; London: Oxford University Press. .
- HOVE, Chenjerai
 1982 *Confessions of a Sorcerer*. Harare: Baobab Press.
- INDIGENOUS PEOPLES REPRESENTATIVES
 1999 *Indigenous People's Statement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the WTO*. Signed at the United Nations, Geneva, 25 July 1999. Manuscript.
- JOHNSON, Martha
 1992 "Research on Traditional Environmental Knowledge: Its Development and Its Role. *Lore: Capturing Traditional Environmental Knowledge*. Dene Cultural Institute. Ottawa: IRDC: 22-43.
- KEANE, Webb
 2000 "The Value of Words and the Meaning of Things in Eastern Indonesian Exchange." *Man* (29):1-52.
- KELLY, Kevin
 1994 *Out of Control: The New Biology of Machines, Social Systems and the Economic World*. New York: Addison-Wesley Publishing Company.
- KEMERI-MBOTE, A.
 2001 "Intellectual Property Rights in Biotechnology." Speech. *Biotech Awareness Workshop* Manuscript. Harare, Zimbabwe.

- KHOR, Martin
2000 "Indigenous knowledge versus TRIPS and IPR" *Indigenous Knowledge and Development Monitor*.
November 2000: 1-3.
- KIRSCH, Stuart
2001 "Lost Worlds: Environmental Disaster, "Culture Loss" and the Law", *Current Anthropology*, 42 (2): 167-95.
- LAMBO, Thomas Adeoye
1978 "Psychotherapy in Africa." *Human Nature*: 297-302.
- LAMBERT, Carmen
1979 *Social and Economic Development of Northern Labrador; Research Needs and Priorities*. Montreal: McGill University.
- LANSING, Stephen J.
1995 *The Balinese*. Fort Worth, TX: Harcourt and Brace Company.
- LEACH, James
2000 "Situated connections: Rights and Intellectual Resources in a Rai Coast Society." *Social Anthropology*. 8(2): 163-179.
- LEACH, Edmund
1976 *Culture and Communication: The Logic By Which Symbols Are Connected*. Cambridge: Cambridge University Press.
- LEACH, Melissa and MEARNNS, Robbin
1996 "Challenging Received Wisdom in Africa. *The Lie of the Land: Challenging Received Wisdom on the African Environment*. The International African Institute James Curry: Oxford Heinemann: 1-33.
- MACPHERSON, Crawford B.
1962 *The Political Theory of Possessive Individualism: Hobbes to Locke*. Oxford: Oxford University Press.
- MAFFI, Luisa
2001 "Toward the Integrated Protection of Language and Knowledge as a Part of Indigenous People's Cultural Heritage", *Cultural Survival Quarterly*. 24 (4): 1-6.
- MAGAISA, Alex
2000 "Theoretical Perspectives and Methodology: Chapter Two" In PhD. Dissertation. London: University of Warwick. Obtained through personal communication.
- MALINOWSKI, B.
1922 *Argonauts of the Western Pacific*. London: Routledge and Kegan Paul.
- MAMDANI, Mahmood
1996 *Citizen and subject: Contemporary Africa and the legacies of colonialism*. Princeton, NJ. Princeton University Press.
- MANDEL, Ernest; NOVACK, George.
1970 *The Marxist Theory of Alienation*, Pathfinder Press.
- MAURICE, Lundu. (Ed.)
1996 *The Political Economy of Information: On Development, Democracy and Security in Southern Africa*. Harare: SAPES Books: 1-12.
- MAUSS, Marcel
1954 *The Gift*, trans. Ian Cunnison. London: Cohen and the West.
- McMICHAEL, Philip
2000 *Development and Social Change: A Global Perspective (Second Edition)*. Pine Forge Press.

- MELLOR, Mary
2000 "Nature, (Re)Production and Power". In Fred Gale and Michael M'Gonigle (Eds). *Nature, Production, Power: Towards an Ecological Political Economy*. Northampton, MA: Cheltenham Press: 105-17.
- MERRY, Sara Engle
2001 "Changing Rights, Changing Culture." In J. Cowen, M. Bembour & R. Wilson (Eds.) *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press: 31-54.
- MERRYMAN, J.H.
2000 *Thinking about the Elgin Marbles: Critical Essays on Art, Cultural Property and the Law*. The Hague; Boston: Kluwer Law International.
- MIKLITSCH, Robert.
1998 *From Hegel to Madonna: Towards a General Economy of "Commodity Fetishism"*. Rochester: State University of New York.
- MOONEY, Pat Roy
1997 *Development Dialogue: The Parts of Life, Agricultural Biodiversity, Indigenous Knowledge and the Role of the Third System*. Uppsala: Dag Hammarskjold Foundation.
- MOORE, Donald S.
2000 "The Crucible of Cultural Politics: Reworking "Development" in Zimbabwe's Eastern Highlands". *American Ethnologist* 26(3): 654-689.
- MUSHITA, A.T.
2001 "Case Study: UZ vs Laussane University for the Medicinal Plant, Swartzia Madagascariensis", *National Workshop on Intellectual Property Rights for Biotechnology*. Harare, Zimbabwe. Biotechnology Trust of Zimbabwe. Sept. 4-5.
- NATIONAL ARCHIVES OF ZIMBABWE
Interview with Gombera, Macheke, Feb. 8th, 1979, Seke Township, Chitunguiza.

To Become a N'anga. African N'angas Association of Rhodesia Formed in 1957. By Dr. M. Gombera. Appendix I.

Founder's History of Varapi. Appendix II.
- NAVARRO, Vincente
1976 *Medicine Under Capitalism*. NY: Prodist, Neale Watson Academic Publications.
- NOBLE, Brian
2001 "Rites of Trading Rights: Blackfoot Tipi Designs, WIPO, and the "Pitfalls" of Compartmentalism." Presentation. *Canadian Anthropology Society Conference*, McGill University. May 3-6.
- PEARCE, Tola Olu
1993 "Lay Medical Knowledge in an African Context" In Shirley Lindenbaum and Margaret Lock (Eds.) *Knowledge, Power and Practice: The Anthropology of Medicine and Everyday Life*. Berkeley: University of California Press.
- PIOT, Charles D.
2000 "Of Persons and Things: Some Reflections on African Spheres of Exchange." *Man*. (26): 406-424.
- PLOTKIN, Mark J.
1993 *Tales of a Shaman's Apprentice: An Ethnobotanist Searches for New Medicines in the Amazon Rain Forest*. NY: Penguin Books.
- POSEY, Darrel A.; DUTFIELD Graham.
1996 *Beyond Intellectual Property: Toward Traditional Resource Rights for Indigenous Peoples and Local Communities*. Ottawa: International Development Research Centre (IDRC).
- POLANYI, Karl
1954 *The Great Transformation*. Boston: Beacon Press.

- RADCLIFFE-BROWN, A.R.
1939 "Taboo", *The Frazer Lecture*. Cambridge: Cambridge University Press.
- RADIN, Margaret Jane.
1996 *Contested Commodities*. Cambridge: Cambridge University Press.
1987 "Market Inalienability" *Harvard Law Review* (100): 1849-1937.
- RAGHAVAN, Chakravarthi
1990 *Recolonization: GATT, The Uruguay Rounds and the Third World*. Penang, Melasia: Third World Network.
- RAPPAPORT, Roy
1967 "Ritual Regulation of Environmental Regulations Among a New Guinea People" *Ethnology*. 10 (1): 17-30.
- REICHEL-DOLMATOFF, G.
1976 "Cosmology as Ecological Analysis: A view of the Rain Forest", *Man*. (11): 307-18.
- REYNOLDS, Pamela
1991 *Dance, Civet Cat: Child Labour in the Zambezi Valley*. London: Zed Books: Athens; Ohio University Press.
1996 *Traditional Healers and Childhood in Zimbabwe*. Athens: Ohio University Press.
- RIFKIN, Jeremy
2000 *The Age of Access: The New Culture of Hypercapitalism Where All of Life is a Paid-For Experience*. New York: Jeremy P. Tarcher/Putnam.
- RODRIK, Dani
2000 *Has Globalization Gone Too Far?* Institute for International Economics.
- RUELLE, David
1997 "Chaos, Predictability and Idealization in Physics." *Complexity*. John Wiley and Sons. Inc. 3 (1): 26-28.
- RUTHERFORD, Blair; WORBY, Eric
2001 "Laws Fictions, State-Society Relations and Anthropological Imaginations: Pathways Out of Africa", *Anthropoligica*, 39: 65-67.
- AFRICAN REGIONAL INTELLECTUAL PROPERTY OFFICE (ARIPO)
2001 "Introduction to Intellectual Property." Speech by E. Sackey. *National Workshop on Intellectual Property Rights for Biotechnology*. Harare, Zimbabwe. Biotechnology Trust of Zimbabwe. Sept. 4-5.
1999 "The African Regional Industrial Property Organization and Its Activities in the Protection of Industrial Property in Africa." *Impact of Intellectual Property on International Trade Workshop*. Kampala, Uganda. January 18-20.
- SCHOONMAKER, Sara.
2001 "Capitalism and the Code: A Critique of Baudrillard's Third Order Simulacrum." In D. Kellner (Ed.) *Baudrillard: A Critical Reader*, Cambridge, Massachusetts: Blackwell Publishers:168-189.
- SCOTT, C.
1996 "Science for the West, Myth for the Rest?" In L. Nader. (ed.) *Naked Science* NY: Routledge: 23-31.
- SELBY, John Mill
1971 *Shaka's Heirs*. London: Allen and Unwin.
- SEN, Amartya
1999 *Development as Freedom*. New York: Anchor Books.
1982 *Poverty and Famines: An Essay on Entitlement and Deprivation*. Oxford: Clarendon Press: New York: Oxford University Press.

- SOLOYEV, Valery
 2000 "Presenting Valences as a Mechanism for Deixis", Kazan State University.
www.fccl.ksu.ru/winter2000/paper2.pdf. [www document]
- SOME, Patrice Malidome
 1994 *Ritual, Magic and Initiation in the Life of an African Shaman*. New York: Putnam.
- STRATHERN, Marilyn; CARNERIA DA CUNHA, Manuela; DESCOLO, Phillipe; ALFONSO, Carlos Alberto; HARVEY, Penelope.
 1998 "Exploitable Knowledge Belongs to the Creators of It." COMPILED DEBATE *Social Anthropology*. 6(1): 109-126.
- STRATHERN, Marilyn
 1991 *Partial Connections*. Sabage, MD: Rowman and Littlefield Publishers.
 1999 *Property, Substance and Effect: Anthropological Essays on Persons and Things*. London: New Brunswick, NJ: Athlone Press.
- SYKES, Karen.
 2001 "Multiple Interests in Malanggan Sculpture: Some Problems in the Rights of Disposal of Cultural Property in Papua New Guinea" In a presentation. *Canadian Anthropology Society Conference*, McGill University. May 3-6.
- TAUSSIG, Michael
 1993 *Mimesis and Alterity: A Particular History of the Senses*. New York: Routledge Press.
- THIONG' O, Ngugui wa
 1986 "Decolonising the Mind: The Politics of Language in Africa" In Stuart and Terry Hirschberg (Eds.) *One World, Many Cultures*. A Pearson Education Company. Pp. 355-361.
- TURNER, Edith
 1992 *Experiencing Ritual: A New Interpretation of African Healing*. Philadelphia: University of Pennsylvania.
- TURNER, Victor
 1970 *The Forest of Symbols: Aspects of Ndembu Ritual*. Ithaca, NY: Cornell U. Press.
 1964 *Lundu Medicine and The Treatment of Diseases*. Occasional Paper. Livingstone, N. Rhodesia: Rhodes-Livingstone Museum.
 1954 *Schism and Continuity in an African Society: A study of Ndembu Village Life*. Manchester, England: Manchester Press.
- UNITED STATES AGENCY for INTERNATIONAL DEVELOPMENT (USAID)
 2000 *A-SNAPP, Agribusiness in Sustainable Natural African Plants Newsletter*. USAID Manuscript. Herb Research Foundation. 2(1):1-10.
- VAN WYK, Ben-Erik; OUDTSHORN, Bosch Van; GERICKE, Nigel.(eds.)
 1997 *Medicinal Plants of South Africa*, Briza Publications.
- VERA, Yvonne
 1993 *Nehanda*, Harare, Baobab Books.
- WEBER, Jonathan
 2002 "The Ever Expanding, Profit-Maximizing, Cultural Imperialist, Wonderful World of Disney: The Serious Business of Selling All-American Fun" *Wired Magazine*. November: 48-56.
- WEINER, Annette
 1992 *Inalienable Possessions: The paradox of keeping while giving*. Berkeley: University of California Press.
- WEISSMAN, Robert
 1999 "AIDS and Developing Countries Democratizing Access to Essential Medicines". *Foreign Policy In Focus*, 4 (23): 1-3.

- WILK, Richard R.
1996 *Economies and Culture: Foundations of Economic Anthropology*. Boulder, Co: Westview Press.
- WOOD, Paul M.
2000 *Biodiversity and Democracy: Rethinking Society and Nature*. Vancouver: University of British Columbia Press.
- WORKING GROUP ON ARTICLE 8(J) OF THE CONVENTION ON BIODIVERSITY/ARTICLE 8(J)
2002 *Outline of the Composite Report on the Status and Trends Regarding the Knowledge, Innovations and Practices of Indigenous and Local Communities*. Manuscript.
- WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)
2001 *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Matters Concerning Intellectual Property and Genetic Resources Traditional Knowledge and Folklore*. Manuscript. First Session, Geneva. April 30 to May 3.
- Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Progress Report on the Status of Traditional Knowledge as Prior Art*. Manuscript. Second Session of Geneva, December 10 to 14.
- 1999 *Roundtable on Intellectual Property and Traditional Knowledge. What is Traditional Knowledge? Why should it be protected? Who should protect it? For whom? Understanding the value chain*. Prepared by Professor Michael Blakeney, Centre for Commercial Law Studies, Queen Mary and Westfield College, University of London.
- WORSLEY, Peter
1997 *Knowledges: Culture, Counterculture, Subculture*. New York: The New Press.
- WYNEBERG, Rachel.
2000 "Privatising the Means for Survival: The Commercialization of Africa's Biodiversity" *Global Trade and Biodiversity in Conflict*. 5. <http://www.grain.or/publications/gtbc/issue5.htm>
- 1999 "Rolling in Gene Pools of Money: Modern Biotechnology, or Genetic Engineering is one of the fastest-growing industries in the world." *Daily Mail and Guardian*, Johannesburg, South Africa, August 17.
- YAPA, Laksham
1996 "Improved Seeds and Constructed Scarcity." In Peet, R. and Watts, M. (Eds.) *Liberation Ecologies: Environment, Development and Social Movements*. London: Routledge: 69-85.
- YONG, Jim; MILLEN, Joyce; IRWIN, Alec; GERSHMAN, John.(Eds).
2000 *Dying for Growth: Global Inequality and the Health of the Poor*. Monroe, ME: Common Courage Press.