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| THE MATIC TITLE | LEGAL PROBLEMS REGARDING THE PROTECTION OF MEDICINAL HERBS THAT MAY CURE DISEASES IN THAILAND |
| KEYWORD | HERB |
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ABSTRACT

This research aims to study and analyze the legal problems regarding the protection of medicinal herbs that may possibly cure diseases in Thailand. This is because there are several legal problems according to the protection of such herbs. For instance, the problems regarding duties and authority of government agencies, composition of the Committee under the Protection and Promotion of Traditional Thai Medicine Wisdom Act, B.E. 2542 (1999), international cooperation on medicinal herbs research and quality certification, and monopoly and guidelines for sharing commercial benefits.

The research results reveal that the related governmental agencies have no participation and authority in the protection. The Committee under the Protection and Promotion of Traditional Thai Medicine Wisdom Act, B.E. 2542 (1999), Section 5, is composed of members from independent agencies regarding herb protection, resulting in ineffective herbal protection. Furthermore, there are several problems regarding registration of patent for herbal drugs in Thailand, due to the lack of an agency for herbal quality inspection and certification. And the problem on illegal drug patent registration in foreign countries which causes the sending back of herbal medicine for sale at a high price in Thailand, which may treat as illegal bio-piracy and profiteering.

Hence, this research suggests that the related governmental agencies should be assigned to participate with additional authority and power for protection. The Committee under the

Protection and Promotion of Traditional Thai Medicine Wisdom Act, B.E. 2542 (1999), Section 5, should be consisted of specialists in the field of traditional Thai medicine, agricultural science, and botany. Besides, the government should make an international cooperation agreement regarding the quality inspection and certification of herbal medicines, for medical development and fairness to those who continue to research the herbal medicines. Furthermore, the related governmental agencies should strictly enforce the illegal drug patent, so that the problem regarding bio-piracy and profiteering could be solved. If any state party break the law, they shall be liable to make restitution to the other state party being the origin of biological resources and must be under the rule for the use of rights upon drug compulsory licensing over such drug patent. In order to prevent the usage of drug patent from being monopoly and to ensure the fairness for origin country, the original resource of medicinal herbs should have the right to receive fair share of commercial benefits.