

Economic and National Wealth of Natural Resources as the Basis of the Constitutional and Legal Status

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Abstract: *The article on the basis of the Constitution of the Republic of Uzbekistan to learn the basics of environmental duties and legal obligations. The article 150 of the Constitution of foreign countries for the first time environmental liabilities, structural analysis, and they are structured. In addition, based on the experience of foreign countries, developed recommendations on the application of national legislation.*

Key words: Constitution, a comparative analysis of the environmental liability, environmental protection, compensation, and environmental taboos.

In second article of the Constitution of the Republic of Uzbekistan legal status of natural resources, was reflected in the provisions related to property rights. These regulations, the use of natural resources protection measures that will strengthen the state policy in relation to natural resources and represent their national importance. In particular, Article 54 of the Constitution of immovable property does not damage the ecological environment, the requirement specified in Article 55 on land, minerals, water, flora and fauna, and other natural resources that the national wealth, and the need for rational use of that safeguard the protection of the state.

Indeed, the basis of the market economy, which is also part of the natural environment of legal regulation of relations on the right of ownership of natural resources in terms of issues of constitutional law, to learn a great theoretical and practical importance.

Plays an important role in the economic potential of the national wealth of the society. Natural Resources independence

on the basis of the material. He is considered the property of the wealth of our nation; we understand the need for rational use of limited resources. It is known that natural resources are created by human; he develops on the basis of the laws of nature. Natural resources constitute the major part of the national wealth. The following types of natural resources, including minerals, soil, vegetation, water, fauna resources. The national wealth increases the effectiveness of the use of the economic potential of the country¹.

Being enshrined in the Constitution of the independent state, society and the state, social, economic, political, legal, cultural and social relations with each individual the right of ownership is considered an important indicator of the state of natural resources, rational use and protection of the main precondition for the regulation of relations of the year. In particular, Articles 50, 54, 55 and 100 non-conservation, rational use of natural resources, strengthens regulatory requirements. Demands on the surrounding natural environment, the rule of the Constitution defines the basic principles of the legal system of relations. These constitutional principles of natural environment protection and rational use of natural resources to ensure the environmental safety of the population and a number of normative-legal acts have been adopted².

¹ Constitutional Law: Textbook / X.T.Odilqoriev O'.X.Muxamedov, B.A.Saidov, et al .; Executive Editor: Sh.T.Ikromov. Tashkent: Academy of the Interior Ministry, 2014. - P.312-313.

² Najimov M.K. Globalization process and the construction of the ecological function of the state // State, and management issues: collection of scientific articles / Responsible editor: prof. H.T.Odilqoriev. -

As we have seen, the Constitution of the Republic of Uzbekistan is rich in natural resources as well as the "national wealth" concept used³. The constitutions of foreign countries suffer more than other approaches. In particular, Bulgaria, Estonia, Hungary, Iraq, and the constitutions of Nicaragua "national wealth", Cuba, Mongolia, China and the Basic Law, "the state (public) property," the Constitution of Vietnam, "public property", South Sudan and the constitutions of the Ukraine, "public property" as used in the categories. Analysis of the legislation of foreign countries, their natural resources, the most "state-owned" the application of the concept. In particular, the constitutions that this concept is used in the following countries: Afghanistan (Article 9), Angola (16), Bahrain (11th), Bangladesh (143), Bhutan (Chapter 1, paragraph 12), Brazil (Article 20), Belarus (13), Cambodia (58), Guatemala (121), Hong Kong (7), Ireland (10), Israel (1), Kazakhstan (Article 613), China (21), Kuwait (21), Kyrgyzstan (12), Liberia (22), Mozambique (97), Oman (11), Namibia (100 Article), the Philippines (Article 11, Section 2), East Timor (Article 139), Qatar (29), Saudi Arabia (14), Spain (132), Syria (Article 14), Tajikistan (Article 13), the United Arab Emirates (23), Congo (Article 9) and b.q.⁴

Literature says that "the national wealth, a special constitutional and legal status, on the basis of life and activities of the people living in the constitutional and legal position"⁵. Economists, "the national

wealth in a country when all designed to work with the community and is understood as a set of all the material and spiritual wealth," he writes, and they include the level of education, experience, ability and skills of the population, natural resources and intellectual potential of the nation. According to them, the national wealth and property of state power in determining the shape of the body all the forces of production - labor and subject of labor, science, form of organization of production and the methods used by people should take into account the forces of nature, etc.⁶.

Our national wealth, constitutional and legal status of the most important and strategic importance to the special objects and their importance for the state and society, and emphasizes the importance and uniqueness of these objects.

"National wealth" constitutional-legal status of scientific and legal literature, as a rule, cultural, artistic, archaeological and historical valuables as well as a variety of natural resources and natural objects used⁷. Objects of national wealth is an important economic, social, environmental, cultural and educational roles, as well as the national interests of the state, and provide economic and environmental security of the country and the people and create the conditions for the formation of national identity and national consciousness of the person. The object of the national wealth of natural resources as reflected in the unique

2015. - №1. Tashkent: Law, Legal Research Center, 2015. - P.145-146.

³ Rahmonkulov H. Constitution 20 years. Executive Editor: prof. O.Z.Muxammadjonov. Tashkent: Law, 2012. P.60.

⁴ Environmental provisions in their constitutions: compilation / Under. Ed. E.A.Vystorobtsa; [Foreword. Yu.S.Shemshuchenko, joined. word-V.I.Danilova Danilyan, interviews with S.A.Bogolyubovym]. - M-Ufa: MIRmpOS Center interekoprava EvrAzNIIPP, 2012. - 385 p.

⁵ Kodolov V.A. To a question about the main differences between the legal regime of natural

objects from the legal regime of natural resources // Agrarian and Land Law. - Moscow, 2010. - №4 (64).

⁶ Mataev TM The state as economic sovereignty media // Problems of Economics and Law. - 2013. - №6. - S.20-21. (S.19-22)

⁷ Isaev AS Forest as a national treasure of Russia // Age of Globalization. - 2011. - №1. - S. 148-158; Melent'ev GB, Short VM Malinin EN, Samonov AE Peat - a national treasure of Russia: prospects for multi-purpose use and environmental safety // Ecology of industrial production. - 2011. - №1. - P. 69-80; Kurmaz VV AA Tsygir Russian Pacific salmon - a national treasure of Russia // Fisheries. - 2010. - №2. - P.30.

shape of human living environment, natural resources.

One of the unique features of the status of national wealth for the owner of the object of the national wealth in terms of ensuring the interests of the state and society in accordance with the determination of additional restrictions. Such restrictions, for example, the use of the object of the national wealth, position, and requirements related to the rational use of b.q. .

The constitutional status of national wealth refers to the use of the interests of all the people of the Republic of Uzbekistan. For example, the natural resources of a separate administrative-territorial unit, enterprise, institution, organization or individual, wealth can not be.

Analysis of the current legislation of their natural resources, «national wealth» bad concept based on three different approaches is used:

The first approach is based on Article 55 of the Constitution recognizes the status of national wealth in natural resources. In particular, the "Protection of Nature" in Article 5 of the Law of December 27, 1996 and Article 16 of the Land Code "air protection" is used in Article 1 of the Law. In particular, according to the Land Code, the use of the concept of national wealth, the earth, and it will be protected by the state, will be another sale, exchange, gift, pledged as structural features of the system. In addition, "Air Protection" in Article 1 of the Law on air component of natural resources, national wealth, which is set to be protected by the state⁸.

The second approach to natural resources, "that the national wealth is owned by the state" with clarifying comments about the property status as well. For example, on August 31, 1991, the Republic of Uzbekistan No. 336-XII "on the basis of the

state independence of the Republic of Uzbekistan" in accordance with Article 7 of the Constitutional Law of the land, minerals, water and forests, flora and fauna, and natural and other resources is subject to a national treasure of the Republic of Uzbekistan.

The status of national wealth owned by the state, as well as natural resources, forests, flora, fauna, and water sector is reflected in the legislation. This equated with the concept of national wealth owned by the state law. For example, on April 15, 1999, the "forest" in accordance with Article 4 of the Law, the forests owned by the state - national wealth, and their rational use, and they are protected by the state. December 26, 1997, or "plant protection and the use of" in accordance with Article 3 of the Law, the state-owned national wealth of flora, more rationally used and protected by the state. December 26, 1997, along with "the protection of animals and the use of" According to Article 3 of the Law, the fauna of the state-owned national wealth, it must be used wisely, and it is protected by the state. May 6, 1993, "On water and water use" in accordance with Article 3 of the Law of the Republic of Uzbekistan - the national wealth, should be the rational use of water, it is protected by the state.

The third approach is to give up the status of the national wealth of natural resources in their "state" status. For example, December 13, 2002, "mineral resources" (new edition), in accordance with Article 4, the property of the mineral resources of the Republic of Uzbekistan shall be rationally used and protected by the state. Or not, the December 3, 2004 "Protected Areas" in accordance with Article 6 of the Law on Protected Areas of the state property and its protection.

It should be noted that property rights is central to the relationship on the right of the Civil Code, the source of "national wealth" concept. In particular, the first part of Article 214 of the Articles 169-170 of the Civil land, mineral resources,

⁸ Article 55 of the Constitution of the foregoing as the air directly to the national wealth. At the same time, air national wealth that Article 55 of the Constitution "and other natural resources," the concept can be understood.

waters, air space, flora and fauna, and other natural resources are the property can be (169), the right of ownership to land and other natural resources FC and other proprietary rights and other laws and regulations (Article 170), land, minerals, water, air space, flora and fauna, and other natural resources of the property may be (Article 214) enshrined.

As we have seen, the Civil Code, the environmental legislation of some of the network, and there are differences between Article 55 of the Constitution. For example, the Civil Code, "natural resources" and "national property" as used in the Constitution, "natural resources" and "national wealth" is used; Civil Code "air space" of the system and lots of natural resources, noting that, although Article 55 of the Constitution "airspace" alienation.

Therefore, the law is clear that the analysis of natural resources, "national wealth", along with the concept of "national property" and "property" of such concepts. At the same time, "national property" in accordance with the legal concept of civil law is one of the types of property. The rest of the property rights which are part of the central concepts of civil law apply. Therefore, the law-enforcement practice of "national wealth" is being used as a legal point of view, much of the property.

However, the "national wealth" and "national property" and the differences between the concepts of a constitution-making that it is not surprising that this concept is using. It should be unnoted that this ratio concepts, different aspects yu.f.d. By Y.O.Juraev studied. According to legal scholars, the legal status of the property of the natural resources of the state at the present time is equal to the legal point of view, the concept of public property. As defined by the owner shall be carried out on behalf of the people of the state, however, such a concept is not considered legal category. He is the essence of political nature, the property available to the public imagination. At the same time the

government has significantly changed the role of the owner. He is the absolute ownership of natural resources and will be responsible for providing a favorable environment that retains only the control functions. In the field of wildlife management and environmental protection in previous legislative system, which represents the interests of the administrative-command system, which represents the interests of managing the use of natural resources departments. Now, the nature and represent the requirements of the protection of the environment.

The state of natural resources in the exclusive ownership of natural resources, either economic or legal relations of property does not serve as a legal form of implementation. Otherwise, this is an abstract subject that will lead to the establishment of a people's property, and all the people of the state bodies of power and administration on behalf of the owner should master the unlimited powers in the implementation of the functions and this will result in serious consequences. Even in the purely economic sense of the people as the subject of the right of ownership of natural resources will not be billed⁹.

A group of authors of "national wealth" When we speak about the power of the natural resources of the state that claims to be the only source available to the public understanding of ¹⁰, others "national wealth" and "public property" that there is a difference between the special category of "national wealth", is owned by the state - the mass structures are strained to the limits of the activities of national interest, the expression of the general welfare will not¹¹.

⁹ Juraev Y.A. Law and Governance in the use and protection of the natural environment of the Republic of Uzbekistan: Author. diss. ... Doctor. jurid. Sciences. - M.: IGP, 1996. - P.30-32. (50).

¹⁰ Zinchenko S.A., Cooper N.S. Own. Freedom. Right. - Rostov n / d, 1995. - pp. 101.

¹¹ Mazaev VD The concept and the constitutional principles of public property. - M., 2004. - P.16.; Rizhenkov AY, Chernomorets AE Essays on the

At the same time, unlike davlatshunos scientists in this matter appropriate to shape the direction of the different views of scientists tsivilist. They are in the field of legal regulation of "People", "wealth" or "national wealth" criticism of the use of such terms. According to them, this concept is the use of legal concepts and noaniqlashtiradi will lead to the emergence of abstract arguments and disputes. According to them, the concept of state property represents the full contents of the national wealth, because, as a rule, in full conformity with the interests of the state and public interests. In addition, they say, requires a clear legal sense, the owner of the property, the property right of the people to be the subject of legal, organizational-legal form should be able to have a state of such a nature¹².

This approach is able to think tsivilistik, science is developed based on the theoretical principles of civil law, the system of legal regulation of social relations, and of course the media will not be considered. However, in terms of constitutional law to prove that the rationale of national sovereignty, and the only source of power in the state as the owner of natural resources and the right to manage this property. The State, in turn, the general method of property management, and if it meets the interests of the people of legal entities and individuals on the basis of the right to property.

Legal publications, including civil and environmental legislation recognized the existence of dialectical contradictions between the ¹³. K.G.Pandakov and

A.E.Chernomoretslarning wrote, in this case, the importance of land as a natural object, and national wealth in the first place and use and requires an adaptation of the requirements of the protection of nature¹⁴.

Today, the people on the recognition of human rights as a subject of research work carried out. In particular, M.P.Fomichenko "People" category of legal shows three main aspects: the political community, the public power source and the subject; regional team, the inhabitants of a particular region; the right to equality and self-determination of ethnic political-regional team¹⁵. National natural resources should be used to the benefit of all citizens of the country.

Private law, in particular, the concept of the modern civil rights of people's property rights, including the subject of the right of ownership of natural resources, is also recognized. However, the constitutional rights of the people are recognized as a subject of constitutional-legal relations¹⁶. In particular, the Constitution preamble alone, its creator, and the people as the subject of human rights. People associated with the legal provisions in the Constitution can divide as follows: firstly, the rules relating to the relationship between the people and the state government to represent the will of the people, the people, and that it is the source of state authority in the implementation of the interests of the people, of the interests of the people, to ensure the safety and well-being (2, 7, 17). Secondly, the rules relating

theory of property rights (past and present). - Volgograd, 2005. - P. 415-419.

¹² Prokhorova N.A. Concept of "control" in the land law // the State and the right. - 2003. - № 6. - P.93.

¹³ Krasnov N.I. On the relation between land and civil rights during the transition to a market economy // State and right. - 1994. - № 7. - S. 54.; Baranovska I.G. Civil-law regulation of land lease contract in Russia: Diss. ... Cand. jurid. Sciences. - M.: SRI, 2013. - p.49.; Vorontsov S.A. Formation and development of land relations in Russia: History and

Modernity: Author. diss. ... Cand. jurid. Sciences. - Krasnodar, 2008 - C.13.

¹⁴ Pandakov K.G, Chernomorets A.E. Agrarian Land Reform: Legislation, Theory, Practice. Saratov, 2004. - P. 22-23.

¹⁵ Fomichenko MP Peoples' Rights in the Russian Federation (the constitutional and legal aspects): Abstract. Dis. ... Dr. jurid. Sciences. - M., 2006. - P.11.

¹⁶ Burtsev AA System subjects of constitutional and legal relations: Author. diss. ... Cand. jurid. Sciences. - M., 2005. - P.17; Avdeenko MP Dmitriev YA Constitutional Law of the Russian Federation. - M., 2005. - P.38 Islands etc.

to the relationship between the citizens and the people - the people of Uzbekistan consists of citizens, civil society, the spiritual and cultural heritage connector (8, 49). Thirdly, participation in the life of the people of the state and society, and its work on the rules of society and the state presented to the discussion of the most important issues of public life, to work on behalf of the people of Uzbekistan Oliy Majlis and the President (9-10).

In this case, G.A.Gadjiev noted that the constitutional subjective rights, and the content of civil subjective rights in certain diversity comes ¹⁷. In this regard, the literature, the right of ownership of natural resources represents a special understanding ¹⁸, property rights and the development of the idea of constitutional interpretation ¹⁹ the need to be substantiated.

Another aspect of this is related to the ownership structure of the subjectivity, the national wealth, because only the state, but citizens, legal entities of property rights is also provided. This aspect is also important to distinguish between the concept of national wealth owned by the state and serves as the basis. In other words, the broader concept of national wealth, meaning, a part of its state-owned. If we came to the conclusion that natural resources belong to private owners also lose its role as a national wealth. In particular, a number of Baltic countries during the last years, including a tendency to increase the share of private agricultural land owners. For example, the Czech Republic, 49 times, 20 in Estonia, 17 in Latvia, Lithuania, 7, 6 in Hungary, Slovakia, Romania and Bulgaria

increased by 2 times²⁰. This feature also allows you to change the content of the national wealth trends.

So short, the constitutional status of national wealth human rights norms enshrined in public law, based on the sovereignty of natural resources, the country's national interests, economic and environmental security, as well as natural resources, property rights and the interests of the people of the Republic of Uzbekistan ensuring the implementation and use of public interests, as well as natural resources are under state protection.

Along with the economic use of natural resources as an important condition for ensuring the sovereignty and disposal are also regulated in detail by law. In my view, the context of the current constitutional reform on the one hand, the state parliament of strengthening and expanding the role of the society, on the other hand, the development of natural resources in the country's economic sovereignty and taking into account the position of the heads of diplomatic missions and international organizations accredited in the Republic of Uzbekistan equivalent state-owned land authorizing the sale of the Cabinet of Ministers of the Republic of Uzbekistan in accordance with the purpose of the Oliy Majlis of the Republic of Uzbekistan. For this purpose, the relevant amendments to the Land Code of the Republic of Uzbekistan and the purpose of the amendments.

¹⁷ Hajiyeu G.A. The constitutional principles of a market economy. (The development of the foundations of civil law in the decisions of the Constitutional Court of the Russian Federation). - M., 2002. - P.17.

¹⁸ Anisimov A..P, A.I. Melikhov "Property of the people" as a legal category // Eurasian Law Journal. - 2008. - № 6. - P. 69-71.

¹⁹ Kruss V.I. The right to entrepreneurial activity - the constitutional authority of the person / Ed. Ed. S.A.Avakyan. - M., 2003. - p.154.

²⁰ M.R. Ashhotova Modernization of the mechanism of regulation of land relations in the conditions of shortage of land: Diss. ... Cand. ehkon. Sciences. - Nalchik, 2015. - P.29.