



Research Article

ANALYSIS OF ENVIRONMENTAL AND PROPERTY RELATIONS IN PLANTS LEGISLATION

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ABSTRACT

The article describes the changes in environmental consciousness and attitudes as a result of the analysis of the environmental situation through international and national statistics and legal aspects. An analytical report is given on the ecological and legal status, the legal regime for the protection and use of the flora, which is one of the natural resources, the dynamics and scale of the adoption of regulatory legal documents regulating the flora, the stages of development by years. In addition, opinions are given on modern concepts, new mechanisms and scientific and theoretical institutions aimed at the development and forecasting of the industry. The issues of ownership of the plant world, its status in the legislation, its features are also described. At the same time, attention is paid to the relationship of individuals and legal entities to the flora as property, the limits of use, and the obligation to protect.

KEYWORDS

Flora, environmental legislation, natural resources, use of plants, private use, property relations.

INTRODUCTION

As a result of the development of society, changes in social and economic relations are reflected in the dynamic indicators of civilization. This situation is

reflected in all aspects. In particular, the processes of environmental protection and use of natural resources are distinguished by the fact that they belong to the



tendency of sudden changes. It is the theoretical views and practical expressions (legislation) of this period that have been formed over the years that are transformed into a modern form, filling their ideological appearance with newly created content.

After all, with the development of environmental and legal consciousness of people, relations regarding the protection and use of the plant world are changing.

On this occasion, legal scholar M.Najimov said: “The levels of socio-economic development are determined not only by how and by what means a person uses nature for his needs in the process of material production. In this case, the attitude to the protection of the natural environment shows the peculiarities of social responsibility awareness by the society. Especially in the modern period, when the ecological situation is deteriorating, the criteria reflecting the level of economic development have gone beyond purely economic interests. From this point of view, it is not by chance that the increasing role of environmental and legal consciousness and culture in the “nature-economy-society” system is put on the agenda as environmental needs become relevant”.

With regard to flora, which is one of the natural objects, according to a report from the Royal Botanic Gardens, Kew, United Kingdom, about 391,000 plant species are currently known to science, of which about 369,000 species (or 94%) are flowering plants. About 2,000 new plant species are discovered or described every year. Based on the best available estimates, scientists say that 21 percent of all plant species, or one in five plant species, are at risk of extinction [1].

It is natural that this environmental tension is also considered a factor influencing the change of the economic level. Ultimately, the economic interest of the state has its influence on all fronts. This trend

affects the legal status of most natural objects as well as the flora legislation.

METHODS

In preparing this scientific article, logical and scientific methods of scientific knowledge were used, in particular, logical analysis, historical, comparative legal methods were used. In addition, empirical materials were analyzed, in particular, statistical data, legislation and practice of foreign countries.

RESULT

Any change in nature, the ecological environment affects the scientific-theoretical and law-making environment, and its visibility allows us to divide the periods of environmental policy into various classifications.

As a first step, it should be noted that new legal norms were created in 1924-1990. The basis of environmental legislation is the development of the original land legislation, the adoption in Uzbekistan of special laws on nature protection and the subsequent codification of laws on the protection of land, water, subsoil, flora and fauna [2].

As the second stage, we can single out the state environmental policy, which was carried out in 2000-2016. In the report “Our main goal is to consistently continue ongoing reforms and structural changes in our economy, despite the existing difficulties, to move forward by opening a wider path to private property, small business and entrepreneurship” at a meeting of the Cabinet of Ministers, dedicated to the results of socio-economic development in 2015 and important priority areas of the economic program for 2016, the First President said: “The main task for us is this technical and technological production must be constantly updated, constantly seek internal



opportunities and reserves, carry out deep structural changes in the economy, consistently continue the modernization and diversification of the industry. In this regard, the most important direction of using our internal capabilities and reserves is the gradual increase in the deep processing of the rich mineral and plant resources of our land, as well as the volume of production of products with high and added value, and should consist of expanding the type"[3].

As you know, in order to create opportunities and encourage entrepreneurial activity, a number of issues related to the industry have been critically reviewed, and bureaucratic barriers that do not meet the requirements of the time have been abolished. As a result of the implemented measures, the business environment in the republic has gradually improved, wide opportunities have been created for private investors and business entities.

The fact that this situation manifests itself in the development of environmental legislation and its implementation in practice indicates how much attention is paid to entrepreneurship.

This attention and benefits are certainly good, but there is also the issue of taking into account the interests of future generations in conducting modern environmental policy. For this reason, the clear rule expressed in our Constitution is defined as "Land, underground resources, water, flora and fauna and other natural resources are national wealth, they must be used wisely and they are under the protection of the state". In essence, "wise use" means, first of all, the use of reserves with an eye to the future. From this point of view, some provisions of the regulation "On the use of flora and fauna objects and the procedure for passing permission procedures in the field of use of flora objects" approved by the decision of the Cabinet of Ministers seems to prioritize its use over protection.

There are a number of legal documents that can be understood in this context. In particular, according to the annex approved by the Resolution of the Cabinet of Ministers No. 278 of September 30, 2015, for legal entities and individuals was given "the fee set for reducing the fee for gathering (collecting) wild plants from 50% to 90%.

There are a number of normative and legal documents that can be understood in this context. In particular, according to the annex approved by the decision of the Cabinet of Ministers No. 278 of September 30, 2015, the fee set for reducing fees for gathering (collecting) wild plants to legal entities and individuals from 50% to 90% concessions were given [4].

As a result, the importance of using plant world objects for business purposes has increased.

The third stage is the processes of "revolution" in environmental policy from 2016 to the present.

Since this year, systematic work has been carried out in our country in the field of environmental protection, rational use of natural resources, improvement of ecological and sanitary conditions.

The results of the analysis carried out in this area indicate the lack of strategic planning and an integrated approach to the implementation of state functions in the field of environmental protection, as well as the insufficient competence of the environmental authority to effectively fulfill the tasks set. As a result, in 2019, a Presidential Decree "On approval of the concept of environmental protection of the Republic of Uzbekistan for the period up to 2030" was signed. It was this document that became the legal proof of the radical change of the state's environmental policy, the emergence of a new trend.



This document is fundamentally different from the documents adopted at the previous stages, prevention of violations of laws in the field of nature protection, introduction of effective mechanisms for their detection and prevention, determination of priority directions of state policy in the field of environmental protection, ecological and sanitary conditions of settlements the main goal was to strengthen the personal responsibility of state bodies, heads of economic entities and citizens [5].

ANALYSIS OF RESEARCH RESULTS

As can be seen from the analysis of scientific and legal literature and terminology in legislation, until 2010, insufficient attention was paid to the issue of protection of flora objects in the literature on environmental law, in most cases the concept of flora was interpreted in general terms. In particular, in the legal literature, the emphasis is only on the concept of the forest and the right to use the forest [6]. The legislation also does not directly disclose the concept of flora. The concept of flora protection and use either did not exist or operated without changes in the structure of the general system of environmental legislation.

It should be noted that by today's era of globalization, new views are emerging on natural resources, in particular on objects of the plant world, and theories are emerging that differ sharply from the above ideas.

These theories gradually find their expression in the adopted laws. This circumstance can be expressed by reasoning about the legislation concerning the plant world, which is the object of environmental law.

The most priority aspect of the new version of the Law on the Protection and Use of Flora (6 years have passed since the adoption of the new version) was that

it was positioned as a law that takes into account property relations in relation to the object and separately reflects the rights of users and their status. We see this situation in the concept of objects of the plant world.

In the law adopted in 1997 and in force for quite a long time, the flora is not defined at all, and the content of flora objects is wild-growing organisms trees, shrubs and herbaceous seed plants, lichens, algae, lichens and fungi are natural plant communities, consisting of all their diverse species, wild organisms or any combination thereof, rare and endangered species, as well as endangered plant species, fruits of wild plants, seeds and other parts, or they are recognized as products of vital activity.

The new version of the law provides a clear definition of "flora - a set of all types of wild plants that grow in a natural environment or are cultivated in artificially created conditions on the territory of the Republic of Uzbekistan." It is noteworthy that this law lists wild plants, botanical collections, and products of living activities of wild plants as objects of the flora.

We can see that the definition of flora and its objects includes the concept of "plant in artificial conditions".

Thus, the law implies not only wild plants in natural conditions, but also plants that have appeared as a result of the existence of anthropogenic impact. This is also important in the regulation of property relations in relation to this natural object.

For this reason, we can see the issue of ownership of flora reflected in the Law as a norm that makes a radical change to the trend that has existed in the ecological legislation system for several years. In particular, it was clearly defined that plants growing wild in the natural environment are the property of the



state, and wild plants grown in artificial conditions can be the property of a legal entity or individual. We can express the novelty of this norm and the existence of a modern approach to ownership of flora by commenting on the previous version of the legal norm.

According to him, the article "Property in relation to the flora" states that "Flora is state property - a national treasure, it must be used wisely and it is under the protection of the state" - Article 55 of the Constitution. Republic of Uzbekistan with a repetition of its content, (Land, water, underground resources, flora and fauna and other natural resources are national resources, they should be used wisely and should be under state protection) it was recognized as "Plants are the property of the state."

We should note that the achievement and advantage of the current law is an important legal document that recognizes the property of individuals and legal entities, private property in relation to the flora.

However, some scientists emphasize that the protection of flora as a natural object should be primary and its use should be limited only with the permission of administrative bodies.

According to legal scientist O. Narzullaev, "It means that private ownership has been established in the field of protection and use of flora as a biological resource. In this regard, regardless of whether ownership is public or private, it is required to use it wisely. It must meet the criteria for good conservation or restoration of resources. One issue is important here - it is established that biological resources are protected by the state regardless of whose property they are, even if they belong to a private owner" [7].

In fact, we can see that the explanation of the Law in this way has influenced the theoretical views of

scientists. As we know, property in the Republic of Uzbekistan is in the form of private property and public property. According to Article 174 of the Civil Code, it is determined that the owner is responsible for the maintenance of his property, unless otherwise stipulated by the law or the contract. Protection of private property belongs to the owner of this property. From this point of view, the right to own, use and dispose of the flora object as a private property belongs to an individual or a legal entity. This denies that it is under "state protection". Therefore, it is natural that when analyzing the norms of ownership issues of the Law "On protection and use of flora" on the basis of universally recognized theoretical rules, different views and different opinions arise.

For example, Y.Joraev believed that "The status of natural resources enshrined in the new legislation as "nationwide wealth" is fundamentally different from the similar statuses of the post-Soviet state, which included various forms of ownership of natural resources and had a specific subject of ownership" [8].

The presence of a norm modified in content and aimed at regulating this relationship also gave rise to cases of contradiction to certain norms. In particular, the law establishes that "the use of objects of the plant world is carried out in the order of general and special use. The general use of the objects of the plant world is carried out by individuals free of charge, in limited amounts to meet vital needs. Special use of the plant world is carried out for a fee, on the basis of permits.

Objects of flora can be used permanently or temporarily (long-term and short-term). This norm does not pay attention to the fact that wild plants grown in artificially created conditions can be the property of a natural or legal entity. Therefore, in the above norm, it is possible to understand the concepts that limit the rights of the owner to the property.



Another plus of the current legislation is that control in the field of protection and use of flora is covered on the basis of an approach that is fundamentally different from the previous law. Already in a market economy, economic recovery that is commensurate with environmental sustainability requires administrative and legal regulation and the expansion of the state's managerial powers in the field of ecology [9]. In accordance with this opinion, Professor Sh. Faiziev notes that the environmental policy of any state is closely related to state management and control in the field of environmental protection, and environmental policy is a systemic expression of state management and control in the field of ecology [10]. Professor J. Kholmuminov expresses the importance of state control over environmental protection and the use of natural resources using the example of German legislation and practical examples [11].

Article 24 of the law stipulates that control in the field of protection and use of flora will be carried out in the form of state ecological control, departmental ecological control, production ecological control, and public ecological control. In accordance with it, state control in the field of protection and use of the flora is carried out by the State Committee for Ecology and Environmental Protection and local government authorities. Departmental environmental control in the field of protection and use of plant life on the lands of the state forest fund by the State Forestry Committee of the Republic of Uzbekistan, in organizations affiliated to state management bodies, as well as in organizations that are part of economic management bodies implemented by state and economic management bodies. Environmental control of production in the field of protection and use of flora is carried out by economic entities in the territories assigned to them. Public environmental control in the field of protection and use of flora can be carried out

by citizens of the Republic of Uzbekistan, non-governmental non-profit organizations, self-government bodies of citizens and mass media.

From the content of the above article it is also clear that all types of environmental control are applied to the process of protection and use of the flora, and it is determined by which body or organization each type of environmental control is carried out.

It should be noted that Article 25 of the law also covers the issue of stimulating the process of protection and rational use of flora, which is one of the following positive results. In accordance with it, individuals and legal entities that ensure the protection and rational use of the plant world, the protection and improvement of the state of its habitat, may be granted benefits in accordance with the law.

CONCLUSION

As a suggestion, it can be said that in order to further increase the effectiveness and practical significance of this rule, it is advisable to clarify the sentence “benefits in accordance with the law” and reflect what benefits are provided. Only then is rational use achieved through an increased demand for the privilege from the user.

The demand of that time dictates that the time has come to develop a Concept of the protection and use of a special plant world, which has incorporated elements of the naturalistic concept (in fact, the time has come to apply the concept of “protection of the plant world”). At the same time, it is advisable to indicate the legal status of “forest” and “flora” objects, administrative procedures, moratorium issues, property issues, legal regime, boundaries and protection criteria, responsible state body and regulatory mechanism. This document acts not only as



a legal one, but also as a derivative of scientific and theoretical conclusions. After all, this cardinal turn was facilitated by a full-fledged state environmental policy.

In general, the renewal of scientific and theoretical ideas regarding the legal protection and use of the plant world creates the prerequisites for positive changes in this system of legislation, drawing attention to the issue of property, and most importantly, taking into account important aspects for practical implementation, ultimately preserving the gene pool and rational use of a natural resource.

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