

Emergence and development of water legislation in Uzbekistan

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ABSTRACT

The emergence and development of water legislation can be classified into four stages. The first stage is the stage of formation of water legal norms and rules in ancient times. The most important legal provisions for the protection of water resources of this stage can be found in the “Avesto”, the sacred book of the ancient Zoroastrians.

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First of all, it should be noted that the development of water legislation has gone through its own long periods of historical formation and development. The issue of regulating social relations related to water resources has been in the focus of attention of our ancient ancestors living in the territory of our country.

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In particular, the Avesto states that the average life expectancy of ancient people is 800-900 years, and some people can live up to 1400 years, depending on living conditions, water purity and environmental friendliness. The Avesto pays special attention to respecting water, cultivating the land, gardening, and sanctifying water¹.

According to this source, water pollution is repeatedly mentioned as a grave sin. The owner of the house, who had collected garbage near the street door, was given 25 lashes by the order of the community elder, and 5 lashes were given to the person who took water from an unclean jug or bucket from a pool or spring. Cattle grazing on rivers and streams, tying horses were not allowed, and those who polluted well and pool water were fined heavily. According to the Avesto, polluting, polluting and suffocating water is a great sin and crime².

The second stage in the development of water legislation is the period of development of water legislation in the Middle Ages.

The main legal sources regulating water relations at this stage are the Qur'an, Al-Hidaya and Hadith. The teachings of Islam, the basis of which is the Holy Qur'an, pay special attention to the protection of nature and the rational use of its resources. Islam protects nature and water, along with all other creatures created by God. According to the Qur'an, the objects of nature are the property of Allah³.

¹ Avesto. Gulistan (Translated by Askar Mahkam), 2000, No. 5, p.36

² Saidov A.Kh. Metaphysics of law, state law, law and literature. –T.: National Center for Human Rights of the Republic of Uzbekistan, “Niso” Polygraph, 2016. – p.218. (648 p)

³ See: the Qur'ani Karim. Uzbek annotated translation. –T.: Chulpon, 1992, p.77

Al-Hidoya, which is a commentary on Shari'ah laws, has played an important role in the legal regulation of social relations related to the protection and rational use of water resources. The Shari'ah states that every living thing has a right to water, that is, a natural right. The rules of construction, placement and modification of waterworks are also regulated in detail in the norms of Muslim law. This relationship is regulated by a number of articles of the Sharia. In particular, they stipulate that one of the partners who uses the canal together may prohibit the other from building a fence and other equipment to be used for water intake.

A citizen's share of water is shown to be inherited by his ancestors. For example, according to Sharia law, the share in water is inherited. In order to use this share, it is necessary to bequeath it to someone. But the share of water is not sold separately from the land. The use of water in someone's share was paid for. The Shari'ah stipulates that if a man irrigates his husband with the share of another man in the water, he will pay for it, whether it is double or double.

The third stage of water legislation is the stage of development of Soviet-era legislation in the first half of the twentieth century. During this period, in particular,

In the 1920s, the process of codification of water legislation in Uzbekistan began. As a result, in 1929, the first Water Code was adopted. For the second time in the 60s and 70s, the process of codification of the legislative network began, with a total of 16 codes, including the adoption of the Water Code in 1972. After the October 1917 coup, private ownership of land, subsoil resources, and water resources was completely abolished in all areas where Soviet power was established.

The Land Decree, adopted on the first day of the coup, established that they had become state property. State ownership of water was preserved during the RSFSR and the former Soviet Union.

Based on this rule, the Constitution of the Autonomous Socialist Republic of Turkestan, adopted on October 15, 1918 and September 24, 1920 and the Constitution of the Republic of Khorezm of October 20, 1923, the Constitution of the Republic of Bukhara of October 19, 1924 and the Constitutions of the Republic of Uzbekistan, adopted in 1927, 1937, and 1978, also established state ownership of water.

In the development of water legislation during the years of Soviet rule, the Law of the Uzbek SSR "On Water"⁴, adopted on June 9, 1972 code has a special place. This codified normative document provides for the scientifically based rational use of water for the needs of the population and the national economy, protection of water from pollution, pollution and depletion, prevention and elimination of harmful effects on water, ensuring the improvement of the condition of water bodies, the regulation of relations related to the protection of the rights of enterprises, institutions and citizens in the field of water relations.

At this stage, the Constitution of the Uzbek SSR (Basic Law), adopted on April 19, 1978, for the first time gave constitutional status to the protection of water resources. In particular, it states that water is the absolute property of the state (Article 11); rational, scientifically based use and protection of water resources in Uzbekistan in the interests of present and future generations; necessary measures shall be taken to maintain the purity of water (Article 18); citizens have the right to health, which is ensured by taking measures to improve the environment (Article 40); citizens must preserve nature and its resources (Article 65); Constitutional provisions have been established, such as the establishment of water use regulations and the protection of the environment under the jurisdiction of the Uzbek government (Article 74).

The fourth stage in the development of water legislation is called the modern stage of development of water legislation, which has been continuously developing for thirty years (1991-2022). The Law of the Republic of Uzbekistan "On the Foundations of State Independence", adopted on the first day of the declaration of the Republic of Uzbekistan as an independent state, defines the legal framework for water resources. According to Article 7 of this law, land, subsoil resources, water, flora and fauna, natural and other resources in the territory of the Republic are the national wealth and property of the Republic of Uzbekistan.

The provisions of this Law are constitutional provisions, which are reflected and developed in the new Constitution of the Republic of Uzbekistan, adopted on December 8, 1992. According to Article 55 of the Constitution of the Republic of Uzbekistan, land, subsoil resources, water, flora and fauna and other natural resources are national wealth.

⁴ References of the Supreme Soviet of the USSR, 1972 №17, Article 158/SP USSR, 1975, №8, Article 46//SP USSR, 1975, №23, Article 141//SP USSR, 1979, №17, Article 114

These constitutional provisions have been comprehensively defined and developed in the current laws adopted in the country. The history of the formation and development of rules for the use and protection of water resources in our country can be conditionally chronological as follows:

The first stage is 1991-2000, during which the constitutional and legal framework for the regulation of relations related to the use and protection of water resources, most of the legislation in the field of water relations has been adopted, creating a solid legal framework governing these relations.

The second stage - 2001- 2009, during which the institutional framework for the use and protection of water resources was strengthened, a system of coordination and coordination of public and parliamentary control in the field of water relations has been introduced, and the relevant legislative system has been improved.

The third phase covers the period from 2010 to the present. At this stage, a number of laws aimed at strengthening the market economy in the field of water relations were adopted.

However, it should be noted that a codification document (Water Code) regulating water relations in a comprehensive manner has not yet been adopted in this area.