

# Scientific and theoretical analysis of the right to use forest land (in the example of Uzbekistan)

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**Abstract.** Uzbekistan is one of the most vulnerable countries to climate change. If timely adaptation measures are not taken, if the country's forest fund does not organize the rational use of land, it can face the problem of deforestation and land degradation. As a result of global warming, snow cover is shrinking and evaporation is increasing. Frequent recurrences and intensification of droughts can undermine the sustainability of agricultural production and food security. This article on the basis of new definitions, improvement of regulatory documents and their analysis reveals suggestions and comments on the development of new legislation related to the use of forest lands. In terms of environmental law researched the legal regulation of legal protection and use of forest lands, the role, and importance of forest lands in the system of natural resources, the origin of the right to protect and use forest lands in the context of research, legal relationship related to compliance the norms, the content of the norms aimed at regulating them, essence and problems of application in practice, as well as the issue of legal liability for violations of the legislation on the use of forest lands.

## 1 Introduction

The beginning of the third millennium is marked by two important trends. First, modern civilization has faced global environmental challenges (climate change, deforestation, ozone depletion, scarcity and pollution of fresh drinking water, loss of soils and biodiversity, waste generation, and the problem of disposing of them). Second, the world is changing at a rapid pace. It is therefore impossible to objectively assess the current situation by yesterday's criteria.

Forests are one of the most common geographical landscapes on the planet's surface. Globally, about 29% of the land area, or more than 3,700 million hectares, is occupied by forests, of which about one-third are farmed, and the rest is located on non-productive or difficult-to-produce land. About 80% of the forests are situated in Latin America, Russia, Africa, and North America, while the rest are in Asia, Europe, Australia, and Oceania [1].

The forestry of our country is distinguished by the abundance and diversity of flora, including unique ornamental and fruit trees, as well as medicinal plants. Today, more than 300 species of plants and more than 180 species of animals of the forest fund are included in the Red Book [2]. During the years of independence, as a result of the implementation of fundamental reforms in the field of forestry in Uzbekistan, the volume of forest land in the

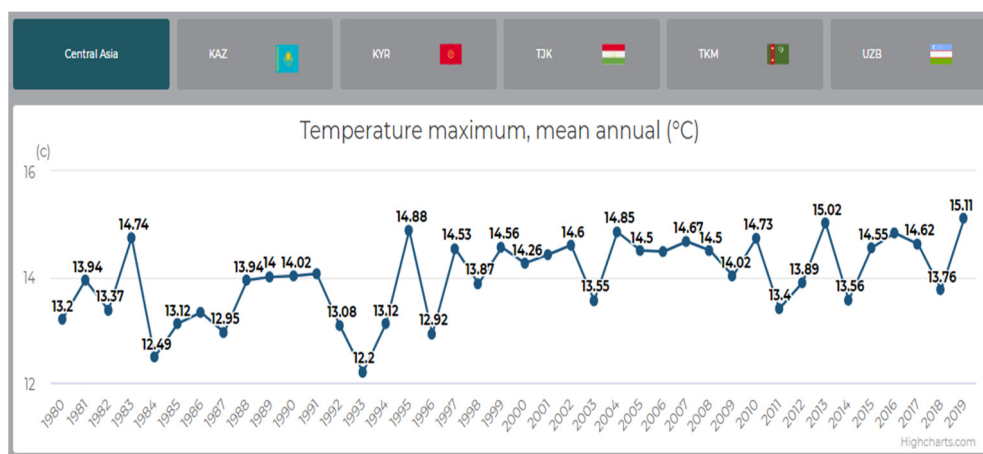
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country has increased significantly. Today, the volume of the land of the state forest fund is 25.2% of the total land area of the republic. In addition, the material and technical base of the industry is physically and spiritually outdated and insufficiently modernized, the work of attracting grants from international financial institutions and donor organizations is slow, the lack of highly qualified specialists in this field, the practical significance of some norms of forest legislation and lack of the implementation mechanisms are causing difficulties in the development of the sector, the reproduction, protection and efficient use of forests.

Forests are a source of fresh water, soil and air moisture, timber, by-products, fruits, and medicinal and food plants. Forests help to preserve and increase flora and fauna, mitigate climate change, prevent the risk of cliffs in the mountains, and solve the problem of water scarcity, as well as have great importance in preventing the catastrophic consequences of floods, combating soil erosion, stopping the movement of sand in desert areas, prevent wind erosion, improving the reclamation condition (salinization, desertification, etc.) increasing pasture productivity. Most importantly, has particular importance in improving the environmental situation and preventing its negative consequences and ending them.

For Asian countries, which are heavily affected by climate change, the most pressing issue is the protection of forest resources. Over the past 3 years, the protection, reproduction, and rational use of forest resources in the Republic of Uzbekistan, the modernization of its material and technical base, the widespread introduction of market mechanisms and information and communication technologies in the sector, effective use of scientific achievements through human resources.



**Fig.1.** Climate Dashboard ([centralasiacimateportal.org](http://centralasiacimateportal.org)).

In the last three years, if we focus on the development trends of forest (plant) legislation, about 30 normative legal acts have been adopted. In particular, the Law of the Republic of Uzbekistan "On Forests" (new edition), Resolutions of the President of the Republic of Uzbekistan "On the organization of the State Committee of Forestry of the Republic of Uzbekistan", "On additional measures to increase forest use in the Republic", The concept of development of the forestry system in the Republic of Uzbekistan until 2030, the resolution of the Cabinet of Ministers "On measures to further improve the financing of forestry development." They are, of course, aimed at regulating issues related to the formation of modern forest legislation, the legal regulation of biodiversity, and its protection.

## **2 Materials and methods**

Philosophy on the right to protect and use forest lands, economic and legal doctrines, the interdependence of subjectivity and objectivity in the regulation of social relations, taking into account the environmental factor in the socio-economic development of society. In writing this article, the author used methods such as comparative-legal, logical analysis, and generalization of practical materials.

The problems associated with the research in the context of this article have been studied to some extent by some legal scholars in the past on a general basis.

Research in this area can be viewed in the following three areas. The first may include special studies aimed at studying the legal problems of forest fund land protection and land use. This category of works includes works of F.S. Namazov [3], and Yu.O. Juraev [4], the second direction includes scientific research on the rational use and management of land resources, scientific and theoretical issues of land control, that is, the works of scientists such as M.M. Brinchuk, B. V. Erofeev are noteworthy.

The third area is devoted to the research of issues such as environmental protection, Forest Fund lands, and philosophical problems of ecology. In this regard, first of all, the research of scientists like A. Nigmatov, and E. Hoshimova is noteworthy. The scientific-theoretical ideas, opinions, research methods, and conceptual views developed in these studies, which are directly related to our research, helped us to determine the goals and objectives of the article, the object, and the subject of research, to determine the accuracy of the conclusions.

The conducted foreign studies reveal such issues as measures of legal protection of biological resources of Harvard University (USA); justified planning of measures to prevent climate change and preserve biodiversity through strategic management (Cambridge University, UK); it is proposed to achieve sustainable development through targeted economic impact on social activities (National University of Seoul, South Korea); substantiated environmental protection through territorial planning (International State Institute of Ecology, Republic of Belarus); justified the preservation of the well-being of human life and biodiversity in nature by reducing the impact of urbanization on the environment (Estonian Environmental Law Center, Estonia); substantiated the development of a system of modern legal regulation in the field of sustainable development and trade, planning through the rational and stable management of limited resources (Stockholm Environmental Law and Policy Center, Sweden); substantiated the significance of international treaties in the protection of biological resources (France); mechanisms for the rational use of biological resources and their use have been developed (Tashkent State Law University).

Legislation in the field of democratization of society and rational use and protection of land resources is improving in independent Uzbekistan. As a result, international cooperation in this area has been harmonized, and the public's interest in issues related to land use rights is growing. They are actively cooperating with government agencies in the formation of land ownership among the population and the protection of land. Adoption of the Law "On Nature Protection", Law "On amendments and additions to some legislative acts of the Republic of Uzbekistan in order to increase the efficiency of use of agricultural lands and forest lands", the resolution "On additional measures to increase the efficiency of forestry in the republic" and other normative legal acts have become very important for the protection and use of forest lands of the republic.

### 3 Results and discussion

We assume that the main purpose of the legislation in the field of forest lands is, first, to regulate the activities of legal entities and individuals using forest lands in accordance with the requirements of the law on forest lands; secondly, protection of the established law and order on forest lands from illegal actions or omissions of legal entities and individuals who are subjects of forest fund plots; third, to ensure social justice by guaranteeing the legitimate rights and interests of the entities using the forest fund lands.

It should be noted that forest fund lands are of special ecological importance and are forested lands, as well as lands allocated for forestry needs, even if they are not covered by forests. The total land area of forest lands is 12020.8 thousand hectares or 26.78% of the total land area. In the Republic of Karakalpakstan - 55.03, Navoi - 24.15, Tashkent - 4.9, Bukhara - 4.83, Kashkadarya - 3.43, Surkhandarya - 2.70, Jizzakh - 2.41, Khorezm - 0.74; Namangan - 1.06, Samarkand - 0.74, Fergana - 0.13, Syrdarya - 0.09, Andijan - 0.07 (in%, as of January 1, 2020) [5].

The analysis of the system of forest land use rights (legislation) shows that:

- The system of lease of non-forest lands of the forest fund was introduced;
- From January 1, 2022, the lease of unused lands of the forest fund to individuals and legal entities will be carried out through an electronic online auction on the order of the State Committee for Forestry;

The following new forms of support for forest fund land users are being introduced in order to increase the efficiency of forest fund land use, including the establishment of new forests, job creation, encouraging additional forest use, and strengthening research activities.

Uzbekistan aims to increase forest area to 14 million hectares by 2030, including 6 million hectares of forested land, increase the volume of seed production to 840 tons per year, the number of bee colonies to 300 thousand, the volume of agricultural production to 32 thousand tons per year, the volume of medicinal plants to 11.6 thousand tons per year [6].

In this regard, it should also be noted that the legal literature focuses only on the concept of forest and the concept of forest use rights. But we include in the forest concept, not only lands covered with trees, but also land not covered with trees, but allocated for these purposes. Forests play an important role in improving the natural environment, improving human living conditions, protecting land, water, flora, and fauna, preserving them, and purifying the atmosphere.

Forest fund plots are part of the forest fund, their specific boundaries, area, location, and the legal regime are recorded and shown in the drawing-cartographic materials. The boundaries of the state forest fund plots may increase or decrease at the expense of other land fund categories.

According to the legislation of Uzbekistan, the concept of forest does not include wildlife. Wildlife relations are regulated not by the scope of relations governed by forest legislation, but by another area of law. Similarly, mineral resources under forest lands are not regulated by forest legislation but are included in the scope of relations regulated by mining legislation. For this reason, it is also not possible to include the mineral resources in the forest in the concept of the forest.

Relationships in the field of land, water, subsoil resources, wildlife use, and forest use related to their protection shall be regulated by the relevant legislation. For example, the LC, the Law on Subsoil Resources (new edition); the Law on Water and Water Use; Law on the Protection and Use of Wildlife.

Thus, according to the legislation of Uzbekistan on forests, in the legal sense, a forest is a set of natural objects included in the forest fund, state-registered, consisting of trees,

shrubs, and other plants, the order of use for the national economy, nature conservation (environmental) and other purposes.

Based on the above considerations, the following can be added to the signs of the concept of forests:

- first, forests will be located on specially allotted lands, i.e., forest fund lands;
- secondly, to be recognized as a forest at the disposal of legal entities and individuals;
- third, it must be listed as a forest in state records.
- Forest fund lands are lands covered with forests, as well as lands not covered with forests, but given for forestry needs.

Forest fund lands can be conditionally divided into two components:

1) lands covered with forests 2) lands allocated for forestry needs, even if not forested. The Land Code of the Republic of Uzbekistan (Article 76) and Article 8 of the Law of the Republic of Uzbekistan "On Forests" of April 15, 1999 (new edition) are the main normative documents regulating the forest fund and its land use regime [7]. These laws determine the legal status of forest lands. According to the normative documents, the concept of forest fund and the concept of forest fund lands are compatible.

The main task of forest fund land use is to ensure biodiversity and timber cultivation. Here, the land is the main means of production. Therefore, most of the forest fund lands are forested lands. In addition, forest lands include lands that are not covered by forests, but are intended for forestry.

In addition, forest fund lands include lands that are not covered with forest and are not intended for tree planting, but are required for forestry. These include forest roads, ditches, swamps, and sand dunes. According to the current forest legislation, all forests in the country form a single state forest fund.

Lands for other purposes may be transferred to forest lands in accordance with the established procedure for the establishment of forests, stopping the expansion of ravines, and the creation of protected forests and green areas around cities and industrial centers.

State forestry bodies may lease unused lands of the forest fund to individuals and legal entities.

Unused lands of the Forest Fund may be leased to individuals and legal entities on the basis of an investment agreement or public-private partnership for a period of not less than three years and not more than forty-nine years.

Forest fund lands may be leased, including for possession, and use in the manner prescribed by law. For example, Articles 8 and 15 of the Law on Forests; Paragraph 6 of Article 6 of LC, Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated December 12, 2019 No 993 "On approval of the Regulation on the procedure for leasing the plots of State Forest Fund" [8].

When it comes to the procedure for allocating land to the forest fund lands, it is issued only in the manner prescribed by law [9]. Thus, only the main purpose of land use will change, ie land plots of one category will be transferred to another.

## **4 Conclusions**

It can also be used for agricultural purposes on forest lands. Forest fund lands include lands that are not used for forestry but are important for agriculture. These are, for example, hayfields and meadows. Forestry authorities have the right to lease these plots of land for temporary use or lease to agricultural enterprises. In this case, the lands of the forest fund used for agricultural purposes should not harm forestry. The activities of agricultural enterprises should be carried out in such a way that they comply with the requirements of forest fire safety and sanitation.

As a result of the research, the following theoretical and scientific-practical conclusions were made (Scientific and theoretical conclusions):

1. A forest is understood as a set of natural objects that are allocated for the forest fund, have passed state registration, and consist of trees, shrubs, and other plants used for environmental and other purposes.

2. Plots of the State Forest Fund – part of the forest fund, their specific boundaries, area, location, and the legal regime are recorded and shown in the drawing-cartographic materials.

3. It should be noted that the secondary lease of forest lands is carried out through an electronic online auction on the order of the State Forestry Committee.

4. While all areas covered by forests are included in the forest fund, the legislation also specifies some exceptions. For example, the following areas covered with giant trees are not included in the forest fund due to the forest concept and its incompatibility with its purpose. These are 1) protective trees and shrubs on agricultural lands, protective trees of arable lands, as well as other trees and shrubs; 2) protective trees in the allotted areas of railways, highways, canals, and other water bodies; 3) Trees and shrubs in cities and other settlements, as well as plants planted for landscaping; 4) trees in backyards and garden plots, as well as shrubs. All forests constitute the state forest fund.

5. State Forest Fund: from forests of state importance, ie forests under the management of state forestry bodies; forests used by other agencies and legal entities. This forest fund is the object of forest use rights. It should be noted that although all trees and shrubs are not subject to forest use rights, but are only included in the forest fund, covered with trees and shrubs, and not covered with trees and shrubs, lands allocated to the forest fund are objects of forest use rights.

It has been determined that the lands of the forest fund can be expanded at the expense of other land funds. It specifies for what purposes it is possible to allocate land plots to the forest fund lands. The event will focus on afforestation, stopping the expansion of cliffs, creating protected forests and green areas around cities and industrial centers, as well as afforestation around low-forested and non-forested areas, afforestation of river and water basins, soil erosion control, soil fertility and more.

As a rule, the lands of the forest fund are primarily low-yielding, abandoned lands, unused lands, reserve lands, and shrub lands. When it comes to the procedure for allocating land to the forest fund lands, it is issued only in the manner prescribed by law. Thus, only the main purpose of land use will change, ie land plots of one category will be transferred to another.

6. Procedure for leasing State Forest Fund plots. Plots of the State Forest Fund shall have a certain boundary, area, location, legal regime, and other features specified in the State Forest Cadastre. When leasing such plots, the lessor shall be the State Forestry Committee (State Forestry), in cases where the relevant authority is granted - its territorial departments in Karakalpakstan and the regions. The forestry organization assigned to the permanent possession of the land is a permanent user of the forest plots.

Legal entities and individuals can be leased on a contractual basis.

7. Forest fund plots are leased in the following forms: reforestation on undeveloped (non-forested) lands of the forest fund, as well as the use of these lands for research, cultural, educational, health, recreation, aesthetic and ecological tourism, implementation of investment projects, aimed the establishment of hunting and fish farms, the cultivation of medicinal plants and seedlings (for a period of up to 50 years); for the implementation of public-private partnership projects on forest lands (within the framework of the public-private partnership agreement) for a period of 3 to 49 years. Forest fund plots are leased according to the approved scheme. The boundaries of the leased forest fund plot are indicated in the act and on the map, which is an integral part of the lease agreement.

Public administration in the field of forest fund lands. As a result of the implementation of fundamental reforms in the field of forestry in Uzbekistan, the volume of forest land in the country has increased significantly. Today, the volume of the land of the state forest fund is 25.2% of the total land area of the republic. In the first years of our independence, this figure did not exceed 5.3% [10]. Public administration in the field of forest lands is reflected in the organization of protection and use of forests by competent state bodies and is reflected in society as an integral part of social management.

8. Public administration in the field of forest lands is understood as the activity of the executive state bodies on the use and protection of forests and the issuance of orders.

9. In Uzbekistan, the land fund is divided into the following categories according to the main purpose of land use: 1) agricultural lands; 2) lands of settlements (cities, settlements, and rural settlements); 3) lands for industrial, transport, communications, defense and other purposes; 4) lands intended for nature protection, health, recreation purposes; 5) lands of historical and cultural significance; 6) forest fund lands; 7) lands of water fund; and 8) reserve lands.

The enumerated land categories constitute a single state land fund, which can pass from one category to another, i.e., they do not solidify into a defined category. For example, some parts of the forest fund lands may be included in the category of lands of settlements, or a forest fund land category may be formed from the reserve land fund.

10. **Content and procedure of land protection** – land protection is a system of legal, organizational, economic, technological, and other measures aimed at rational and legal use, restoration and increase of soil fertility, the efficiency of forest lands, prevention of unjustified withdrawal of lands from agricultural turnover and lands of nature protection, health, recreation, and historical and cultural significance, protecting them from harmful anthropogenic impact.

The bodies exercising state management in the field of use and protection of forest lands shall be divided into state bodies with general and special powers.

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