

Some issues of legal regulation on protections of untouched natural resources

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국문초록

몽골은 고유한 천연 자원을 보호하기 위하여 국가 정책을 개발하고, 또한 특별 보호 지역의 새로운 기준을 설정하고 법 규정과 몽골의 손길이 닿지 않은 천연 자원을 보호하기 위해 협력을 강화하는 것이 시급하다. 따라서, 본래의 천연 자원의 훼손이 없도록 법적으로 규제를 할 필요가 있다.

몽골은 수많은 독특한 지역과 자연에 의해 생성된 자연 경관을 가지고 있다. 따라서 몽골의 현세대는 다음 세대에 손길이 닿지 않는 교유의 자연환경을 상속하기 위해 많은 전통적인 방법과 국가 정책을 개발해야 한다.

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I. Historical background of the Mongolian legal regulation on protections of untouched natural resources

This research article chiefly reflects the traditional and modern legal regulation on protection of untouched natural resources. To summarize the contents of traditional regulations, it was not necessary to have a detailed legal regulation on protection of nature and environment in its unique position during the society of cooperatives and centrally planned economy because for these periods, Mongolia had less population and cattle and fewer natural affects such as climatic changes; therefore, nature has an ecosystem balance and correlations with human life regime and daily operations.

For instance: in 1975-1976, Representatives of National Deputy Khural, MPR, made a resolution Nr. 84 on “Setting State Protected Area of Gobi Ikh Darkhan Gazar” with main contents to make some areas of Mongolia into state protected areas to protect their natural resources and to set conditions for sustainable growth of rare animals in these areas¹⁾. In addition, Representatives of National Deputy Khural, MPR, made a resolution Nr. 283 on “Setting State Protected Area of Gobi Ikh Darkhan Gazar” that set a status of state protected areas in two classifications and promoted an objective to make Central Asian Desert Area into world level important objects²⁾ for scientific and research works in relations with conservation of

1) Resolution Nr. 84 of National Great Khural Representatives, MPR on April 14, 1975.

2) Resolution Nr. 283 of National Great Khural Representatives, MPR on December 30, 1976.

soil, plants, animals of this area in their unique ways, to protect and enrich its natural reserves, nature and environment.

Above-mentioned state policy expresses that nature and protection issues are vital not only in Mongolia, but also throughout the world.

It is necessary and urgent to enhance a state policy and legal regulations on nature and environmental issues, namely in protection on untouched image of the nature and environment in modern time when it becomes normal to ruin natural resource and conditions due to sharp increase in number of people and cattle during the social changes from the market economy until today, changes in nature, climate and sediments, spoils of nature and environment due to improper activities of citizens and economic entities.

II. The main problems of the protections of untouched natural resources

Due to insufficient legal environment of untouched resources of nature and environment, nature and environment have been polluted and deteriorated in recent years through improper attitude of human being to the nature and environment, improper activities of companies and economic entities (such as construction, mining, and tourism activities), pollution of nature and environment, improper and illegal mining of natural reserves and minerals. For instance: there are over 100 households illegally resided at Zaisan of Bogd Khan Uul special protected area without any permission and authorizations. Protection administration of the area has granted these households with a notice on transfer from the area; however, only one household has moved as of today, according to the summary³⁾. Such a loss

of natural resources caused destruction of rare animals and plants, pasture deterioration, soil nutrition failure, desertification, forest and water reserve deterioration, air pollution in settlement areas, ecosystem imbalance, and many other living environment affects.

Therefore, it is necessary to enhance legal regulations on protection of untouched natural resources.

III. Current legal regulation on protections of untouched natural resources

Upon review of the presently effective legal regulations on protection of untouched resources of the nature and environment:

Mongolia does not have a special law on protection of the unique untouched image of the nature and environment; however, the issue is regulated through the following law statements:

The Constitution of Mongolia (1992) states, “The land, its subsoil, forests, water, fauna and flora and other natural resources in Mongolia shall belong exclusively to the people and be under state protection.⁴⁾”, “All the land, its subsoil, forest, water, fauna and flora, and natural resources other than privatized to citizens of Mongolia shall stay a state property.”, and “entitled to live in healthy environment protected from natural imbalance, and environmental pollution”. These statements shall be basics for the legal regulation to protect nature and environment, its untouched resources even

3) Estimation Report made by National Auditing Authority of Mongolia in 2011.

4) Article 6 of the Constitution of Mongolia

there is no direct statement.

On basis of above basic regulations in the Constitution of Mongolia, other relevant organic laws have regulated as follows: Law on Nature and Environmental Protection (1995) states, “Natural reserves estimation and natural affects estimation works shall be made with the objectives to reserve untouched resources of the nature, to prevent from natural imbalance, and to coordinate proper exploitations of natural resources⁵⁾”.

The purpose of Law on Special Protected Areas (1995) states to reserve and protect untouched resources of nature and environment through its statement, “The objective of the present law to protect typology for natural zones, regions, their features ad unique structure, rare and the rarest animals, flora and fauna, historical and cultural sightseeing, to research the conformity of evolution and changes, to give into special protection with the purpose of conscience and researches, to exploit, preserve untouched resources of the nature and environment⁶⁾”. This law has set 4 kinds of state protected areas with main contents to reserve unique nature and environment of Mongolia as it has 156411575 hectare land⁷⁾ including 10,494,283 hectare land of special protected areas.

IV. The mongolian state policy on protections of untouched natural resources

According to our research on the relevant documents of Mongolian state policy, issues of reservation and protection of natural unique resources are

5) Article 7.1 of Mongolian Law on Nature and Environment

6) Article 1 of Mongolian Law on Special Protected Areas

7) Land Agency and Central Land Fund Reports, 2011.

reflected as follows:

“National Development Pack Policy” (2008) based Millennium Challenge Objective of Mongolia states, *“Land reserved and inherited by Mongolian ancestors from generation to generation should be honored, reserved in untouched ways, to create national land treasure fund, to give into state protection, to enhance state policy and management on special protected areas, to expand size of special protected areas, to create optional management and system, and to implement modern protection management system that meets modern requirements⁸⁾”*.

Mongolian State Policy on Ecology (1997-2020) states, *“Society shall create a pre-condition of sustainable development on basis of the adaptation into nature and environment. In 2001-2010, privileges shall be given into creation of the ecological basis for sustainable development through interrelations between nature and environment and economic policy implementation activities. Basic development center and its infrastructures gravity axles shall be created in accordance with environmental capacity. In addition, an implementation of ecologically oriented state policy shall start from this period. During this period, we shall implement methodology and organization to get adapted into the environment in the major social lives.⁹⁾”* as a Mongolian state policy on ecology up to 2020.

Governmental Action Program (2012-2016) states, *“to provide enactment and implementation of laws on prohibition of mining and exploitation activities in river flows, beginning, its reservoirs, forest and other protected areas, and to develop naturally favorable mining¹⁰⁾”* as an expression of a

8) Parliament Resolution Nr. 12 in 2008.

9) Parliament Resolution Nr. 106 in 1997.

10) Parliament Resolution Nr. 37 in 2012.

state policy to interrelate operations of economic entities in exploitation of the natural reserves.

National Program for Special Protected Areas (1998) states, “Network of special protected areas shall be expanded through areas of ecological importance that confronts features, complex, and distinguishing importance of natural zones, regions to make up to 30% of total territory of Mongolia¹¹⁾” as an emphasize and a special attitude to the reservation of untouched resources of the nature and environment and to provide ecological balance.

V. Conclusion

There is a prevailing state policy to solve issues to protect untouched nature of Mongolia through extension of special protected areas. It is correct on the one hand; however, on the other hand, it shows a deficiency of central state policy to protect untouched resources of nature.

Legal environment for protection of untouched nature and environment in Mongolia does not meet modern requirements of the market economy.

It is necessary to enhance legal regulation and regulations on nature and environmental protection on basis of tendency to consider correlations that effect on loss of untouched resources of the nature and environment and to define regulations of organic laws to protect natural untouched resources in Mongolia.

11) Parliament Resolution Nr. 29 in 1998.

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[Abstract]

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It is urgent for Mongolia to have and develop a state policy to protect unique natural resources of Mongolia and to set a new classification of special protected areas in Mongolia and to enhance legal regulations and coordination to protect untouched natural resources of Mongolia; therefore, it is necessary to have a legal regulation that handles a protection of untouched natural resources on basis of the tendencies to consider other relations correlating with the loss of untouched natural resources.

Mongolia has many unique areas and natural sightseeing that are created by nature; therefore, Mongolian ancestors had many traditional methods and state policies to inherit the unique untouched nature and environment to the next generation.

Key words : Mongolia, natural resources, policy of state, protective area, natural