

ГАДААДЫН ЗАРИМ УЛС ОРНУУДЫН ҮНДСЭН ХУУЛЬД БАЙГАЛИЙН БАЯЛГИЙН ӨМЧЛӨЛИЙН ХЭЛБЭРИЙГ ТУСГАСАН БАЙДАЛ

(Мэдээлэл, лавлагаа)

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1. ҮНДСЭН ХУУЛИЙН ЭДИЙН ЗАСГИЙН ЗАРИМ ОЙЛГОЛТУУД

НҮБ-ын Ерөнхий Чуулган (НҮБЕЧ)-ны 1962 оны 12-р сарын 14-ны өдрийн “Байгалийн баялаг дахь эзэн орны байнгын бүрэн эрх”-ийн тухай 1803 дугаар тогтоолд²³⁵:

“Ард түмэн, үндэстний байгалийн баялаг дахь байнгын бүрэн эрх нь тухайн улсын хүн ардын сайн сайхан байдал, үндэсний хөгжлийн ашиг сонирхлын тусын тулд хэрэгжих ёстой” (The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned.) гэж заасан байна.²³⁶

Байгалийн баялгийн тухай

Ашигт малтмалын тухай хуулийн 4 дүгээр зүйлд “Байгалийн баялаг” гэсэн нэр томъёо, түүний тайлбар байхгүй бөгөөд харин **“ашигт малтмал”** гэх нэр томъёог геологийн хувьсал, өөрчлөлтийн дүнд газрын гадаргуу, түүний хэвлийд үүсч бий болсон аливаа хэрэгцээнд ашиглаж болох байгалийн байдлаараа байгаа эрдсийн хуримтлалыг ойлгоно гэжээ.

Байгаль орчныг хамгаалах тухай хуульд «байгаль орчин» гэдэгт хүний амьдрал, үйл ажиллагаанд шууд болон шууд бусаар нөлөөлдөг Монгол Улсын нутаг дэвсгэрийн чулуун мандал, усан мандал, шим мандал, агаар мандлын харилцан шүтэлцээт хүрээлэл хамаарна гэж заасан бөгөөд:

- 1/ газар, түүний хөрс;
- 2/ газрын хэвлий, түүний баялаг;
- 3/ ус;
- 4/ ургамал;
- 5/ амьтан;
- 6/ агаар нь байгаль орчны бүрдэлд ордог байна.

Дээрхээс үзэхэд “Байгалийн баялаг”²³⁷ нь ганц ашигт малтмал биш учраас

²³⁵1950-иад оноос энэ зарчмын үзэл санаа анх дэлгэрч, түүний агуулга, үндсэн санааг хэрхэн тайлбарлах талаар олон улсын эрх зүйн судлаачид, хөгжингүй болон хөгжиж буй орны төлөөлөгчдийн дунд томоохон маргаан дэгдээх эх сурвалж болж байлаа. 50-иад оны эхэн үеэр колонийн системийн задралын үр дүнд шинэхэн байгуулагдсан улс гүрнүүд бусад улсын захиргаанд байхдаа гадаадын хөрөнгө оруулагчидтай байгуулсан байгалийн баялгийг ашиглах тухай гэрээ хэлцэл нь тухайн орны хувьд шударга бус, тэгш эрхийн зарчмыг зөрчсөн, баялгийн эзэн орны ард түмний эрх ашигт харшилсан болохыг илэрхийлэх болсон байна.

Эзэн орнууд байгалийн баялаг дахь бүрэн эрхийн зарчим нь тэдгээрийн тусгаар тогтнолын элемент болохыг ойлгох тусам тус асуудал тухайн орны төрийн бодлого, хууль тогтоомжоор баталгаажих шаардлагатай харилцаа мөн гэдэгт баттай итгэх болжээ. Энэ зарчмын язгуур санаа НҮБ-ын Ерөнхий Чуулган (НҮБЕЧ)-ны 1952 оны 12-р сарын 21-ний өдрийн 62 дугаар тогтоолд тусгалаа олсон байдаг. Тус тогтоолд:

“Байгалийн баялаг, нөөцөө чөлөөтэй ашиглах, олборлох ард түмний эрх нь тухайн улсын тусгаар тогтнолын салшгүй хэсэг мөн” гэж заасан байна.

Permanent Sovereignty over Natural Resources, General Assembly resolution 1803 (XVII), New York, 14 December 1962, http://legal.un.org/avl/ha/ga_1803/ga_1803.html

²³⁶Нямдоогийн Баярмаа, Байгалийн баялаг дахь эзэн орны байнгын бүрэн эрхийн зарчим болон уул уурхайн салбарын техник эдийн засгийн үндэслэлийн хууль зүйн үр дагавар, <http://legaldata.mn/b/315>

²³⁷Collins-ийн тайлбар тольд тодорхойлсноор: “Байгалийн баялаг” гэж хүн байгалиас авч ашиглах боломжтой

аль ч улс орны Үндсэн хуулиар **“хуваарилалтын зарчим”** бус харин **“ашиглах зарчим”**-ыг зааж өгдөг байна. Ингэхдээ байгаль орчны тэнцлийг алдагдуулалгүй ирээдүй хойч үеийн эрүүл, аюулгүй орчинд амьдрах эрхийг баталгаажуулах, урт хугацаанд тогтвортой хөгжих бодлого баримтлахаа зарчим болгон тунхагласан байдаг.

Төрийн болон нийтийн өмчийн тухай²³⁸

Нийтийн өмч гэж ашиглах дүрэм журам нь нийгмийн гишүүнчлэлийн үүднээс тодорхойлогддог нийтийн эзэмшлийн баялгийг хэлнэ. Нийтийн өмч гэдэгт усжуулах систем, улсын мэдлийн усанд загас агнуур хийх, нийтийн худаг ус, нийтийн ой, бэлчээр, онгон зэлүүд газрууд гэхчлэн маш олон янзын нийтээрээ эзэмшдэг баялгууд орно. Тиймээс өмчийн эрхийг омог, тосгон, овог аймаг, хэрэглэгч хороод, хамтын нөхөрлөл, хотын, эсхүл орон нутгийн засгийн газар эдэлнэ. Нийтийн эзэмшилд тэгш байдал ба даатгал (Platteau, 1991) гэх тэргүүтэн онцгой давуу талууд байдаг ч үүний зэрэгцээ тухайн нийтлэг өөрийн үр дүнтэй менежментийг хэрэгжүүлдэггүй л эс юм бол [зүгээр тэжээлгэгчид, нийтийн үйлчилгээнд үнэгүй хамрагдагчид] зэрэг болзошгүй асуудлууд ихтэй. Хэрвээ хэрэгжүүлэх арга хэлбэр нь төгс сайн биш л бол гаднаас ирэх үймүүлэгчидтэй байх магадлал их. Мөн энэчлэн нийтийн эзэмшлийн хүрээнд хадгалалт, хамгаалалтын дүрэм журамтай ч байж болно, журамгүй ч байж болох талтай. Баланд, Платтю (Baland and Platteau 1996) нар баялгийг хэрэглэх талаарх дүрэм журамтай нийтийн өмч ба хэрэглээг хязгаарласан дүрэм журамгүй нийтийн өмчийн ялгааг гаргасан байдаг. Дүрэм журмын зохицуулалтгүй нийтийн өмч баялгийг хадгалалт, хамгаалалтын дүрэмгүй, эсхүл мөрддөггүй нөхцөлд гагцхүү нийтлэгийн гишүүнчлэлээр л хязгаарлаж болно. Хэрвээ хэрэглэгч бүлэг нь өмч баялагтайгаа харьцуулахад том бол, эсхүл баялгийн буруу хэрэглээнээс олох орлого нь тухайн цагийн боломжит өртөгтэй харьцуулахад их бол тэрхүү дүрмийн зохицуулалтгүй нийтийн өмч баялаг хэт их хэрэглээнээс үүдэн муудах эрсдэлтэй байдаг байна. Гэтэл дүрмийн зохицуулалттай нийтийн өмчийн тухайд бол хэрэглээний болон хадгалалт, хамгаалалтын дүрмүүдтэй байна. Үнэгүй хэрэглээ болон нийтийн өмч баялгийг хамтад нь нийтийн, эсхүл нийтийн сангийн баялаг гэж үзнэ.²³⁹

байгалийн бүх төрлийн эрдэс болон эрчим хүчний нөөц, ой, газрын бүхий л төрөл зүйлийг ойлгоно гэжээ. “Байгалийн эрдэс” гэдэгт ус, агаар гэх мэт байгалийн бүхий л элементийг ойлгоно. Мөн Блэкийн “Хууль зүйн толь бичигт”: “Байгалийн нөөц” гэж ой, ус, эрдсийн орд, газрын бүрдэл болон байгалийн баялгийг ойлгоно гэжээ.

С.Нарангэрэлийн “Монголын эрх зүйн толь бичигт”: Байгалийн нөөц гэдэг нь хүн өөрийн хэрэгцээндээ ашиглах буюу нэн хэрэгтэй амьд ба амьгүй байгалийн объектын нийлбэр цогц юм. Ийм объектын тоонд газар, түүний хэвлий, ой, ус, агаарын орон зай, ургамлын ба амьтны аймаг багтана гэжээ.

²³⁸<http://gsdrc.org/docs/open/ssaj39.pdf>

²³⁹Нийтийн гэдэг нь The commons are characterised by costly exclusion and that use is subtractive, i.e. use depletes or congests the resource for other users Ostrom, 1990; Oakerson, 1992).

Төрийн өмч баялаг бол албан ёсоор төрийн эзэмшилд, тиймээс ч төрөөс хэрэглээний болон хадгалалт, хамгаалалтын талаарх дүрэм журмын зохицуулалтыг хийдэг өмч юм. Засгийн газар нь дүрэм журмыг үр дүнтэй сайн мөрдүүлж чадахгүй бол төрийн өмч нь төрийн нэртэй боловч нэдэр дээрээ хувийн, эсхүл үнэгүй хэрэглээний баялаг болж хувирахад хүрнэ. Жишээлэхэд: олонх халуун орны ой мод төрийн өмч гэгдэх боловч ихэнх тохиолдолд хууль бусаар чөлөөтэй хэрэглэх, суурьших, хараа хяналтгүй, хууль бусаар мод бэлтгэх зэргийн улмаас сүйтгэгдэж байна. Социалист орнуудад газар тэргүүтэн байгалийн баялаг ихэвчлэн улсын өмч байх боловч тариалан эрхлэх эрхийг хувь хүмүүс болон хамтралд шилжүүлсэн байдаг. Ийм системд урт удаан хугацааны гэрээний аюулгүй байдал нь маш бүрхэг, газрын хөрөнгө оруулалт болон сайжруулан боловсруулах цөөн хэдхэн хүчин зүйлстэй төдий байдаг. Зарим Африкийн орнуудад газар нь колоний болон тусгаар тогтносон засгийн газрууд нь албан ёсоор улсын өмч болгосон байдаг ч менежмент нь уламжлалт тосгодын мэдэлд хэвээр байдаг. Тэрчлэн газар ашиглалтын тухай хууль гэх зэрэг албан ёсны хууль тогтоомж нь орон нутгийн түвшний баялгийн менежментэд ямар нэгэн санамсаргүй арга замаар нөлөөлнө. Ийм хууль тогтоомжууд нь хэдийгээр мөрдөгдөж эхлээгүй байсан ч албан бус нийтийн өмчийн институтуудын эрх мэдлийг доройтуулах талтай байдаг (Bromley, 1991).

Нийтийн өмчийн үүрэг нь:²⁴⁰

- 1/ төр зөвхөн ард түмний бүрэн эрхийг нийтийн эрх, ашигт нийцүүлэн хэрэгжүүлэхэд нийтийн өмчийн хууль зүйн утга агуулга оршино.
- 2/ улсын буюу нийтийн өмч нь түүнийг удирдаж байгаа этгээдийн эд баялгийн эх үүсвэр байх ёсгүй гэсэн үндсэн санаанууд дээр тулгуурлан тодорхойлогдоно.

Нийтийн өмч гэдэг нь ард түмний (олон нийтийн) ашиг сонирхлыг хангах зорилго бүхий материаллаг ба материаллаг бус эд зүйлсийн цогц юм.

Нийтийн өмчийн шинж чанарыг дараах хүчин зүйлс тодорхойлдог байна. Үүнд:

1. Зорилго: Нийтийн ашиг сонирхолд зориулах;
2. Нутаг дэвсгэрийн зарчим: Тухайн улсын нутаг дэвсгэрт хэрэгжүүлэх;
3. Субъектийн онцлог: нийтийн өмчийг өмчлөх эрх ард түмэнд байх бөгөөд түүний өмнөөс нийтийн засаглалын эрх бүхий субъект нийтийн ашиг сонирхолд нийцүүлэн удирдах;
4. Объектын онцлог:
 - а) нийтийн захиргааны удирдлагын (гүйцэтгэх эрх мэдлийн) шаардлагатай нөөц;
 - б) нийгмийн ач холбогдол бүхий үнэ цэнэтэй эд зүйл;
 - в) нийтийн баялгийн эх үүсвэр, нөөц (жишээ нь, газар, ашигт малтмалын нөөц);

²⁴⁰Ш.Цогтоо "Гадаад орнуудын Үндсэн хуулийн эрх зүй" 2018 он.

г) ховор нандин эд баялаг. Нийтийн өмчийн зарим объект онцгой өргөн хүрээний хэрэгцээг хангах чадвар болон нийгмийн нөхөн үйлдвэрлэлд эзлэх ач холбогдлоороо ялгардаг. Ийм объектыг үндэсний баялаг гэдэг онцгой бүлэг (категория)-т хамааруулна.

Энэ бүлэг нь тухайн улсынхаа иргэд нийтийн анхаарлыг ихээхэн татдаг бөгөөд түүнийг «ард түмний баялгийн зүйл», «ард түмний баялаг», «нийт үндэстний баялгийн объект», «үндэсний баялаг» гэх зэргээр янз бүрийн хуульд тохирох нэр томъёогоор нь тусгаж өгсөн байдаг.

Ш.Цогтоо “Гадаад орнуудын Үндсэн хуулийн эрх зүй” номондоо: “Нийтийн өмчийн тухай ойлголтыг манай шинэ Үндсэн хуулийн 6.1-д «Монгол Улсад газар, түүний хэвлий, ой, ус, амьтан, ургамал болон байгалийн бусад баялаг гагцхүү ард түмний мэдэл, төрийн хамгаалалтад байна» гэж нийтийн өмч гэдэг нь ард түмний өмч гэж зохицуулсан боловч 6-р зүйлийн 6.2-т «Монгол Улсын иргэдэд өмчлүүлснээс бусад газар, түүнчлэн газрын хэвлий, түүний баялаг, ой, усны нөөц, ан амьтан төрийн өмч мөн» гэсэн нь нийтийн өмчийг мөнөөх «хамгаалагч» нь, бүр тодорхой хэлбэл «бидэнд үйлчлэх ёстой үйлчлэгч» нь миний өмч гэж тодорхойлж байгаатай адил түвшинд ойлгогдохоор гуйвуулан тайлбарлах болсон нь тодорхой байна.” гэжээ.

2. ГАДААДЫН ЗАРИМ УЛС ОРНУУДЫН БАЙГАЛИЙН БАЯЛГИЙН ӨМЧЛӨЛТЭЙ ХОЛБООТОЙ АСУУДЛЫГ ҮНДСЭН ХУУЛИАР ЗОХИЦУУЛСАН БАЙДАЛ

Улс орнуудын Үндсэн хуульд (эсхүл холбогдох хууль тогтоомжуудад) өмчтэй холбоотой асуудал, үүнд байгалийн баялгийн өмчлөлийн хэлбэрийг олон янз байдлаар зохицуулсан байдаг. Эдгээр нь дараах хэлбэртэй байна:

1. Хувийн (private title) - өмчлөлийн эрхийг хувь хүн, эсхүл хуулийн этгээд, корпорацид олгосон хэлбэр;
2. Нийтийн буюу орон нутгийн заншлын (communal or customary title) - ихэнхдээ ашиглах, олборлох хамтын эрхийг хэлнэ;
3. Төрийн (State ownership) - төр, эсхүл муж улс нь өөрийн, эсхүл “ард түмний” нэрийн өмнөөс байгалийн баялгийг өмчилж, цаашлан өөрөө ашиглах, эсхүл түрээслэх эрхтэй байх хэлбэр;
4. Холимог (A mix or co-existence) - хэд хэдэн хэлбэрүүдийн хосолсон загвар, ингэхдээ хувь хүнийн амьжиргаа болон үндэсний эдийн засагт ач холбогдол бүхий нөөцүүдийг ялгаж, зааглаж өгсөн байна.²⁴¹

²⁴¹Nicholas Haysom and Sean Kane, Negotiating natural resources for peace: Ownership, control and wealth-sharing, Centre for Humanitarian Dialogue, 2009
http://comparativeconstitutionsproject.org/files/resources_peace.pdf

Байгалийн баялгийн өмчийн хэлбэрийг Үндсэн хуулиар тусгайлан зохицуулсан улс орнуудын хувьд тусгаар тогтносон улс буюу байгалийн баялгийн өмчлөгч нь төр байна гэж тусгасан нь түгээмэл байна. Түүнчлэн Үндсэн хуулиудад газрын гадаргуутай холбоотой өмчлөх эрх нь хувийн, эсхүл орон нутгийн өмчлөлд байж болох бол газрын хэвлий дэх ашигт малтмал, нөөц баялаг нь төрийн өмч байна (Либерти гм) гэж ялгасан байгаа бол зарим улс орнуудад газрын хэвлий дэх ашигт малтмалын уугуул иргэдийн өмчлөх эрхийг хүлээн зөвшөөрч, цаашлаад гэрээ хэлцэл байгуулахад тухайн орон нутгийн иргэдтэй зөвлөлдөх шаардлагыг тусгасан байна (Канадын Юконы нутаг дэвсгэр гм).

Гадаадын зарим улс орнуудын Үндсэн хуулиудаас шүүн үзэхэд байгалийн баялгийн өмчлөлтэй холбоотой асуудлыг дараах байдлаар тусгасан байна. Дэлгэрүүлж Хавсралтаас үзнэ үү.

Хүснэгт 1. Гадаадын зарим улсын Үндсэн хуульд байгалийн баялгийн өмчлөлийн хэлбэрийг тусгасан байдал

Өмчийн хэлбэр	Улсын тоо	Улс орон
Төрийн өмч (State property)	35 улс	Афганистан, Ангол, Армен, Азербайжан, Бахрейн, Бангладеш, Беларусь, Бутан, Болгар, Кабо-Верде, Камбож, Канад, Катар, Колумби, Конго, Чили, Коста-Рика, Эквадор, Эль Сальвадор, Экваторын Гвиней, Унгар, Энэтхэг, Индонез, Иран, Ирланд, Казахстан, Кувейт, Мексик, Монтенегро, Филиппин, ОХУ, Саудын Араб, Словак, Турк, Катар
Public property	4 улс	Алжир, Португал, Румын, Арабын Нэгдсэн Эмират Улс
People's property	4 улс	Египт, Молдева, Сенегал, Нигер

ХАВСРАЛТ

	Улсын нэр	Үндсэн хуулийн зохицуулалт
Төрийн өмч (State property)		
1.	Afghanistan 2004	Chapter I, Article 9 Mines and other subterranean resources as well as historical relics shall be the property of the state. Protection, management and proper utilization of public properties as well as natural resources shall be regulated by law.
2.	<u>Armenia 1995 (rev. 2015)</u>	CHAPTER I ARTICLE 10 GUARANTEEING PROPERTY 2.Subsoils and water resources shall be exclusive property of the State.
3.	Azerbaijan 1995 (rev. 2016)	First part, Chapter II Article 14 Natural resources Natural resources belong to the Republic of Azerbaijan, without damage to the rights and interests of any physical or juridical person.
4.	Bahrain 2002 (rev. 2017)	CHAPTER II ARTICLE 11 All natural wealth and resources are State property. The State shall safeguard them and exploit them properly, while observing the requirements of the security of the State and of the national economy.
5.	Bangladesh 1972 (reinst. 1986, rev. 2014)	Part XI 143 Property of the Republic 1. There shall vest in the Republic, in addition to any other land or property lawfully vested- a.all minerals and other things of value underlying any land of Bangladesh; b.all lands, minerals and other things of value underlying the ocean within the territorial waters, or the ocean over the continental shelf, of Bangladesh; and c.any property located in Bangladesh that has no rightful owner.
6.	Belarus 1994 (rev. 2004)	Section 1 Article 13 The mineral wealth, waters and forests are the exclusive property of the State. The land for agricultural use is the property of the State.
7.	Bhutan 2008	ARTICLE 1 12. The rights over mineral resources, rivers, lakes and forests shall vest in the State and are the properties of the State, which shall be regulated by law. ARTICLE 5 4. Parliament may enact environmental legislation to ensure sustainable use of natural resources and maintain intergenerational equity and reaffirm the sovereign rights of the State over its own biological resources.
8.	Bulgaria 1991 (rev. 2015)	CHAPTER I ARTICLE 18 1. The State shall enjoy exclusive ownership rights over the underground resources; beaches and national thoroughfares, as well as over waters, forests and parks of national importance, and the natural and archaeological reserves established by law. 2. The State shall exercise sovereign rights in prospecting, developing, utilizing, protecting and managing the continental shelf and the exclusive off-shore economic zone, and the biological, mineral and energy resources therein. 3. The State shall exercise sovereign rights with respect to radio frequency spectrum and the geostationary orbital positions allocated by international agreements to the Republic of Bulgaria. 4. A state monopoly shall be establishable by law over railway transport, the national postal and telecommunications networks, the use of nuclear energy, the manufacturing of radioactive products, armaments and explosive and powerful toxic substances.

		<p>5. The conditions and procedure by which the State shall grant concessions over units of property and licences for the activities enumerated in the preceding two paragraphs shall be established by law.</p> <p>6. The State shall utilize and manage all the state's assets to the benefit of individual and society.</p>
9.	Cape Verde 1980 (rev. 1992)	<p>Part I Title I Article 6</p> <p>2. In its contiguous area, its exclusive economic area, and the continental shelf, defined by law, the State of Cape Verde shall have rights of sovereignty over conservation, exploration, and use of national resources, living and non-living, and shall exercise jurisdiction under the provisions of internal law and the norms of International Law.</p> <p>Part I Title I Article 7</p> <p>The following are the fundamental duties of the State:</p> <p>j. To protect the land, nature, natural resources, and environment, as well as the historical-cultural and artistic national heritage;</p> <p>Part III Title I Article 91 Public Domain</p> <p>1. The following property shall be in the public domain:</p> <p>a. Interior waters, archipelago waters, and the territorial sea, its beds and floor;</p> <p>b. Airspace over the national territory;</p> <p>c. The continental shelf;</p> <p>d. Living and non-living resources in the interior waters, archipelago waters, the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf;</p> <p>e. Mineral deposits and the natural subterranean cavities;</p> <p>f. Public roads;</p> <p>g. Beaches and the maritime zone;</p> <p>h. Other property as determined by law.</p> <p>2. The law shall make regulations regarding property in the public domain, as well as its management and conservation, with respect to principles of inalienability.</p>
10.	Cambodia 1993 (rev. 2008)	<p>CHAPTER V ARTICLE 58</p> <p>State property comprises land, underground mineral resources, mountains, sea, undersea, continental shelf, coastline, airspace, islands, rivers, canals, streams, lakes, forests, natural resources, economic and cultural centers, bases for national defense and other buildings determined as State property.</p> <p>The control, use and management of State properties shall be determined by law.</p> <p>CHAPTER V ARTICLE 59</p> <p>The State shall protect the environment and the balance of natural resources and establish a precise plan for the management of land, water, airspace, wind, geology, ecological systems, mines, oil and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources.</p>
11.	Qatar 2003	<p>CHAPTER II ARTICLE 29</p> <p>Natural wealth and resources are owned by the State, which preserves and exploits them well according to the provisions of the law.</p>
12.	Colombia 1991 (rev. 2015)	<p>Title XII Chapter I Article 332</p> <p>The State is the owner of the subsoil and of the natural, non-renewable resources without prejudice to the rights acquired and fulfilled in accordance with prior laws.</p> <p>Title XII Chapter IV Article 360</p> <p>The exploitation of a non-renewable natural resource shall give rise to an economic offset in the form of concession fees (regalia) for the benefit of the State, without prejudice to any other right or compensation which might be agreed upon. An Act shall determine the conditions for the exploitation of non-renewable natural resources.</p> <p>Upon the initiative of the Government, a separate Act shall determine the distribution, objectives, purposes, administration, collection, control, efficient use and destination of the revenues resulting from the exploitation of non-renewable</p>

		natural resources, laying down the conditions for participation of their beneficiaries. The totality of revenues, assignments, organs, procedures and regulations shall constitute the General System of Concession Fees (Sistema General de Regalias).
13.	Congo (Democratic Republic of the) 2005 (rev. 2011)	Title I Chapter 1 Section 2 Article 9 The State exercises a permanent sovereignty notably over the soil, the subsoil, the waters and the forests, over the air, river, lakes and maritime spaces of the Congo as well as over the Congolese territorial sea and over the continental shelf. The modalities of management and of concession of the domain of the State specified in the preceding paragraph are determined by the law. Title III Chapter 2 Section 2 Article 203 Without prejudice to the other provisions of this Constitution, the following matters are of the concurrent competence of the Central Power and the Provinces: 16.land and mining rights, territorial management, the regime of waters and forests;
14.	Chile 1980 (rev. 2015)	CHAPTER III ARTICLE 19 The Constitution guarantees all persons: 24.The State has absolute, exclusive, inalienable and imprescriptible dominion of all mines, including guano deposits [covaderas], metalliferous sands, salt mines, coal and hydrocarbon deposits and other fossil substances, with the exception of superficial clays, notwithstanding the property of natural or legal persons over the terrains in which they may be contained. Surface properties are subject to the obligations and limitations established by law to facilitate exploration, exploitation and processing of such mines. 1. The law is to determine what substances of those referred to in the preceding paragraph, excepting liquid or gaseous hydrocarbons, may be subject to exploration or exploitation concessions. These concessions shall always be constituted by a judicial decision and will have the duration, will confer the rights and impose the obligations that the law expresses, which shall have the character of constitutional organic. The mining concession required the owner to undertake the necessary activity to satisfy the public interest that justifies its granting. The amparo regime shall be established by the said law, and will tend directly or indirectly to obtain the fulfillment of that obligation and will contemplate the grounds for revocation in the event of nonfulfillment or simple extinguishment of domain over the concession. In any case, the said grounds and its effects must be established at the time of granting the concession. 2. It will be the sole jurisdiction of the ordinary courts to declare the extinction of such concessions. Disputes concerning the expiration or termination of ownership of the concession will be settled by them; and, in the case of expiration, the affected party may request from the judiciary the declaration of the subsistence of its right. 3. The domain of the holder over its mining concession is protected by the constitutional guarantee referred to in this number. 4. The exploration, exploitation or development of deposits containing substances not susceptible to concession, may be implemented directly by the State or its enterprises, or by means of administrative concessions or special operation contracts of operation, with the requirements and under the conditions that the President of the Republic determines, in each case, by a supreme decree. This rule also applies to deposits of any kinds existing in sea waters subject to national jurisdiction and those located, in whole or in part, in zones that, according to law, are of importance to national security. The President of the Republic may, at any time, without explanation and with the compensation that corresponds, terminate the administrative concessions or contracts of operation relation to the exploitation in zones declared of importance to national security. 5. The rights of individuals over the waters, recognized or constituted in accordance with the law, will grant their holders the property over them;
15.	Costa Rica 1949 (rev. 2015)	Title Sole chapter Article 69 The contracts of rural share-farming will be regulated in order to assure the rational exploitation of the land and the equitable distribution of its products between owners and share-farmers [aparceros].

		<p>Title IX Chapter II Article 221 In addition to the other attributions that this Constitution confers on it, it corresponds exclusively to the Legislative Assembly:</p> <p>1. 14.[The following] may not be definitively outside of the domain of the State: b.The deposits of coal, the sources and deposits of oil, and any other hydrocarbon substances, as well as the deposits of radioactive minerals existing in the national territory;</p> <p>Title X Chapter II Article 140 [The following] are duties and attributions that correspond jointly to the President and to the respective Minister of Government:</p> <p>1. [...]</p> <p>2. 19.To subscribe the administrative contracts not included in paragraph 14) of Article 121 of this Constitution, under reserve of submitting them to the approval of the Legislative Assembly when they stipulate [the] exemption of taxes or rates, or [when] they have for their object the exploitation of public services, natural resources or wealth of the State.</p> <p>3. The legislative approval of these contracts will not give them character of laws nor will exempt them from their administrative juridical regime. That provided in this paragraph will not be applicable to the loans or other similar agreements, referred to in paragraph 15) of Article 121, which will be governed by their special norms;</p>
16.	Ecuador 2008 (rev. 2015)	<p>Title VI Chapter 5 Strategic sectors, services and state enterprises Article 313 The State reserves the right to administer, regulate, monitor and manage strategic sectors, following the principles of environmental sustainability, precaution, prevention and efficiency. Strategic sectors, which come under the decision making and exclusive control of the State, are those that, due to their importance and size, exert a decisive economic, social, political or environmental impact and must be aimed at ensuring the full exercise of rights and the general welfare of society. The following are considered strategic sectors: energy in all its forms, telecommunications, nonrenewable natural resources, oil and gas transport and refining, biodiversity and genetic heritage, the radio spectrum, water and others as established by law.</p> <p>Title VI Chapter 5 Article 314 The State shall be responsible for the provision of the public services of drinking and irrigation water, sanitation, electricity, telecommunications, roads, seaport and airport facilities, and others as established by law. The State shall ensure that public services and the provision thereof observe the principles of obligation, generality, uniformity, efficiency, responsibility, universality, accessibility, regularity, continuity and quality. The State shall take steps to ensure that the prices and fees of public services are equitable, and shall establish the monitoring and regulation thereof.</p>
17.	El Salvador 1983 (rev.2014)	<i>The subsoil pertains to the State, hich may grant concessions for its exploitation.</i>
18.	Equatorial Guinea 1991 (rev. 2012)	<p>FIRST TITLE ARTICLE 3</p> <p>2.Over its territory the State fully exercises its sovereignty and can explore and exploit in an exclusive manner all resources and mineral wealth and hydrocarbons.</p>
19.	Hungary 2011 (rev. 2016)	<p>THE STATE PUBLIC FINANCES ARTICLE 38</p> <p>1. The property of the State and of local governments shall be national assets. The management and protection of national assets shall aim at serving public interest, meeting common needs and preserving natural resources, as well as at taking into account the needs of future generations. The requirements for preserving and protecting national assets, and for the responsible management of national assets shall be laid down in a cardinal Act.</p>

20.	India 1949 (rev. 2016)	<p>PART XI CHAPTER III 297 THINGS OF VALUE WITHIN TERRITORIAL WATERS OR CONTINENTAL SHELF AND RESOURCES OF THE EXCLUSIVE ECONOMIC ZONE TO VEST IN THE UNION</p> <p>1. All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India shall vest in the Union and be held for the purposes of the Union.</p> <p>2. All other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union.</p> <p>3. The limits of the territorial waters, the continental shelf, the exclusive economic zone, and other maritime zones, of India shall be such as may be specified, from time to time, by or under any law made by Parliament.</p>
21.	Indonesia 1945 (reinst. 1959, rev. 2002)	<p>CHAPTER XIV ARTICLE 33</p> <p>1. The economy shall be organized as a common endeavour based upon the principles of the family system.</p> <p>2. Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State.</p> <p>3. The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people.</p> <p>4. The organisation of the national economy shall be conducted on the basis of economic democracy upholding the principles of togetherness, efficiency with justice, continuity, environmental perspective, self-sufficiency, and keeping a balance in the progress and unity of the national economy.</p> <p>5. Further provisions relating to the implementation of this article shall be regulated by law.</p>
22.	Iran (Islamic Republic of) 1979 (rev. 1989)	<p>CHAPTER IV ARTICLE 45</p> <p>Public wealth and property, such as uncultivated or abandoned land, mineral deposits, seas, lakes, rivers and other public water-ways, mountains, valleys, forests, marshland, natural forests, unenclosed pastureland, legacies without heirs, property of undetermined ownership, and public property recovered from usurpers, shall be at the disposal of the Islamic government for it to utilize in accordance with the public interest. Law will specify detailed procedures for the utilization of each of the foregoing items.</p> <p>Share article</p> <p>CHAPTER X ARTICLE 153</p> <p>Any form of agreement resulting in foreign control over the natural resources, economy, army, or culture of the country, as well as other aspects of the national life, is forbidden.</p>
23.	Ireland 1937 (rev. 2015)	<p>THE STATE ARTICLE 10</p> <p>1. All natural resources, including the air and all forms of potential energy, within the jurisdiction of the Parliament and Government established by this Constitution and all royalties and franchises within that jurisdiction belong to the State subject to all estates and interests therein for the time being lawfully vested in any person or body.</p> <p>2. All land and all mines, minerals and waters which belonged to Saorstát Éireann immediately before the coming into operation of this Constitution belong to the State to the same extent as they then belonged to Saorstát Éireann.</p> <p>3. Provision may be made by law for the management of the property which belongs to the State by virtue of this Article and for the control of the alienation, whether temporary or permanent, of that property.</p> <p>4. Provision may also be made by law for the management of land, mines, minerals and waters acquired by the State after the coming into operation of this Constitution and for the control of the alienation, whether temporary or permanent, of the land, mines, minerals and waters so acquired.</p>

24.	<u>Kazakhstan 1995 (rev. 2017)</u>	<p>SECTION I ARTICLE 6</p> <p>3. The land and underground resources, waters, flora and fauna, other natural resources shall be owned by the state. The land may also be privately owned on terms, conditions and within the limits established by legislation.</p>
25.	<u>Kuwait 1962 (reinst. 1992)</u>	<p>PART II ARTICLE 21</p> <p>All of the natural wealth and resources are the property of the State. The State shall preserve and properly exploit those resources, heedful of its own security and national economy requisites.</p>
26.	<u>Germany 1949 (rev. 2014)</u>	<p>ARTICLE 15. [SOCIALISATION]</p> <p>Land, natural resources and means of production may for the purpose of socialisation be transferred to public ownership or other forms of public enterprise by a law that determines the nature and extent of compensation. With respect to such compensation the third and fourth sentences of paragraph (3) of Article 14 shall apply mutatis mutandis.</p> <p>ARTICLE 89. [FEDERAL WATERWAYS - ADMINISTRATION OF WATERWAYS]</p> <p>1. The Federation shall be the owner of the former Reich waterways.</p> <p>2. The Federation shall administer the federal waterways through its own authorities. It shall exercise those state functions relating to inland shipping which extend beyond the territory of a single Land, and those functions relating to maritime shipping, which are conferred on it by a law. Insofar as federal waterways lie within the territory of a single Land, the Federation on its application may delegate their administration to that Land on federal commission. If a waterway touches the territory of several Länder, the Federation may commission that Land which is designated by the affected Länder.</p> <p>3. In the administration, development and new construction of waterways, the requirements of land improvement and of water management shall be assured in agreement with the Länder.</p>
27.	<u>Liechtenstein 1921 (rev. 2011)</u>	<p>ART 21</p> <p>The State shall possess sovereign rights over waters in conformity with the laws existing or to be enacted hereafter in this matter. The utilisation and distribution of such waters and flood control measures shall be regulated by law and promoted, with due regard to the development of technology. Rights relating to electricity shall be regulated by law.</p> <p>ART 22</p> <p>The State shall exercise sovereign rights over hunting, fishing and mining; when legislating on these matters, it shall protect the interests of agriculture and of communal revenues.</p>
28.	<u>Mexico 1917 (rev. 2015)</u>	<p>TITLE ONE CHAPTER I ARTICLE 2A</p> <p>A. This Constitution recognizes and protects the indigenous peoples' right to self-determination and, consequently, the right to autonomy, so that they can:</p> <p>1. [...]</p> <p>2. VI. Attain with preferential use of the natural resources of the sites inhabited by their indigenous communities, except for the strategic resources defined by this Constitution. The foregoing rights shall be exercised respecting the forms of property ownership and land possession established in this Constitution and in the laws on the matter as well as respecting third parties' rights. To achieve these goals, indigenous communities may form partnerships under the terms established by the Law.</p> <p>TITLE ONE CHAPTER I ARTICLE 27</p> <p>The property of all land and water within national territory is originally owned by the Nation, who has the right to transfer this ownership to particulars. Hence, private property is a privilege created by the Nation.</p>

	<p>Expropriation is authorized only where appropriate in the public interest and subject to payment of compensation.</p> <p>The Nation shall at all time have the right to impose on private property such restrictions as the public interest may demand, as well as to regulate, for social benefit, the use of those natural resources which are susceptible of appropriation, in order to make an equitable distribution of public wealth, to conserve them, to achieve a balanced development of the country and to improve the living conditions of rural and urban population. Consequently, appropriate measures shall be issued to put in order human settlements and to define adequate provisions, reserves and use of land, water and forest. Such measures shall seek construction of infrastructure; planning and regulation of the new settlements and their maintenance, improvement and growth; preservation and restoration of environmental balance; division of large rural estates; collective exploitation and organization of the farming cooperatives; development of the small rural property; stimulation of agriculture, livestock farming, forestry and other economic activities in rural communities; and to avoid destruction of natural resources and damages against property to the detriment of society.</p> <p>The following elements are the property of the Nation: all natural resources of the continental shelf and the seabed of the islands; all minerals and substances that are in seams, layers, masses or deposits and that have a nature different from the components of the soil, such as minerals from which metals and metalloids are extracted; beds with gemstones or salt; salt mines formed by sea water; the products derived from rock breaking, when their exploitation requires underground works; minerals or organic deposits susceptible to be utilized as fertilizers; solid mineral fuels; petroleum and all solid, liquid or gaseous hydrocarbons; and the space located over national territory, according to the extension and terms established by International Law.</p> <p>The following elements are the property of the Nation, according to the extension and terms established by International Law: waters of the territorial sea; internal sea waters; waters of lagoons and estuaries permanently or intermittently connected with the sea; waters of natural lakes which are directly connected with streams constantly flowing; river and affluent waters, from the site where the first permanent, intermittent or torrential waters start to flow, to the mouth in the sea, lakes, lagoons or estuaries owned by the nation; waters of the continuous or intermittent currents and their direct or indirect affluent, whenever their bed serves as border of national territory or between two states, or when they flow from one state to another or cross the country's border; waters of lakes, lagoons or estuaries, which vessels, zones or shores are crossed by borderlines dividing one or more states or between the country and a neighboring country, or when the shoreline serves as a border between two states or between the country and a neighboring country; waters of springs flowing from beaches, maritime areas, streams, vessels or shores; waters extracted from mines; and the internal beds, shores and banks. Underground waters may be freely extracted by artificial works and may be appropriated by the owner of the land. However, when the public interest so requires or whenever other uses are affected, the President of the Republic may regulate extraction and use of underground waters and, even, establish prohibited zones. The same criteria shall apply to other waters belonging to the nation. Any other waters not included in the foregoing list, shall be considered as an integral part of the land through which they flow. Nevertheless, if such waters are located in two or more properties, their use shall be considered as public, complying with provisions issued by the states.</p> <p>In the cases referred to in the two previous paragraphs, the dominion by the State shall be inalienable and imprescriptible, and the exploitation, use or development of those resources, be that by individuals or by corporations incorporated in accordance with Mexican laws, shall not be carried out but through concessions granted by the Federal Executive in accordance with the rules and requirements so established by the laws; exception be made of broadcasting and telecommunications concessions, which shall be granted by the Federal Telecommunications Institute. Legal norms regarding works or efforts to exploit minerals and others substances referred to in paragraph four shall govern the execution and oversight of those carried out, or that ought to be carried out as of</p>
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	<p>their entry into force, regardless of the granting date of the concessions, and the breach thereof shall result in the termination of the concessions. The Federal Government is empowered to establish and revoke national reserves. Such declarations shall be made by the Executive in those cases and under the conditions set forth by the laws. No concession shall be granted in the case of radioactive minerals. The Nation shall exclusively carry out the planning and control over the national electric system, and over the power transmission and distribution utilities. No concession shall be granted in these activities, notwithstanding the power of the State to execute contracts with private parties in accordance with the laws, which shall determine the ways in which private parties may participate in all other activities related to the electric power industry.</p> <p>In the case of petroleum and solid, liquid or gaseous hydrocarbons found underneath the surface, dominion by the Nation shall be inalienable and imprescriptible, and no concessions shall be granted. In order to obtain revenue for the State and contribute to the long-term development of the Nation, the State shall explore for and exploit oil and other hydrocarbons through assignment to productive state-owned companies, or through contracts to be executed with them or private parties, in accordance with the implementing law. To fulfill the purpose of said allocations and contracts, the productive state-owned companies may enter into contracts with private parties. In any event, subsoil hydrocarbons shall remain property of the Nation and it shall be so expressed in the allocation and contracts. Only the State can use nuclear minerals to generate nuclear energy. The State shall regulate the use of nuclear minerals. Nuclear energy will be used only for peaceful goals.</p> <p>The Nation has sovereign rights and jurisdiction on the exclusive economic zone, situated outside and beside the territorial sea. The exclusive economic zone stretches from the seaward edge of the country's territorial sea out to two hundred nautical miles. In cases where said zone should produce a superposition over the exclusive economic zones of other countries, fixing of the boundaries shall be done through agreements with such countries.</p> <p>The legal capacity to own Nation's lands and waters shall be governed by the following provisions:</p> <p>3. I. Only Mexicans by birth or naturalization and Mexican companies have the right to own lands and waters, and to obtain exploitation licenses for mines and waters. The State may grant the same right to foreigners, provided that they agree before the Ministry of Foreign Affairs to consider themselves as Mexicans regarding such property and not to invoke the protection of their governments in reference to said property, under penalty of forfeiting the property in favor of the country. Foreigners cannot acquire properties within the zone that covers one hundred kilometers along the international borders and fifty kilometers along the beach.</p> <p>4. The State can authorize foreign States to acquire real estate for their embassies or legations in the same city where federal government powers reside, in accordance to the principle of reciprocity and to the national public interest and at consideration of the Foreign Affairs Ministry.</p> <p>5. II. Religious associations, created in accordance with the terms provided in Article 130 and its regulatory law, can acquire, possess or manage properties essential for their religious activities.</p> <p>6. III. Public and private charitable institutions, devoted to public assistance, scientific research, education, mutual assistance to their members, or any other lawful purpose cannot acquire other real estate than that which is essential to fulfill their objective, according to the regulatory law.</p> <p>7. IV. Corporations based on shares can own rural lands, but only in the extension necessary to fulfill their objective.</p> <p>8. The maximum area of land that such class of companies can hold in ownership for agricultural, livestock farming or forest activities is equivalent to twenty five times the limits specified in section XV of this Article. The law shall determine the capital structure and minimum number of shareholders so that the lands owned by each shareholder do not exceed the limits established for small rural property. All individual rural properties, based on shares, will be cumulative for this purpose. Likewise, the law shall establish the requirements for the participation of foreigners</p>
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	<p>in said corporations.</p> <p>9. The law shall establish the registration and control procedures required to comply with the provisions of this section.</p> <p>10. V.Duly authorized banks, in accordance with the credit institutions law, can have capital imposed on urban and rural properties, but they cannot hold in property or in management, any more real estate than that which is entirely necessary to fulfill their direct objective.</p> <p>11. VI.The Federal District, the States and Municipal Councils shall have full legal capacity to acquire and possess all the real estate required for public services.</p> <p>12. Federal and State laws, according to their respective jurisdiction, shall establish the cases in which expropriation of private property is necessary for the public welfare, issuing the corresponding statement. Compensation for expropriation shall be based on the property value registered in the records of the land registry or Tax collector's office, regardless such value has been defined by the owner or by the State and tacitly accepted by owner when paying taxes. Only the increased or decreased value of said private property, due to any improvements or deteriorations made after the tax appraisal, can be subjected to assessment by experts and to judicial resolution. Objects, which value is not fixed in tax collector's office, can also be subjected to assessment by experts and to judicial resolution.</p> <p>13. The Nation shall execute the actions established in this Article through judicial proceedings. During said proceedings and under the appropriate court's order, which shall be issued within one month, administrative authorities shall occupy, manage, auction or sell the lands or waters in question along with their appurtenances. In no case may such actions be revoked by the corresponding authorities before the execution sentence is pronounced.</p> <p>14. VII.The legal capacity of farming cooperatives and communal land is recognized and their ownership over the land is protected, whether for human settlements or for productive activities.</p> <p>15. The law shall protect the wholeness of the indigenous groups' lands.</p> <p>16. In order to promote respect and strengthening of the community life of farming cooperatives and communal land, the law shall protect the lands for human settlements and shall regulate the uses of communal lands, forests and waters. The State shall implement actions to improve the quality of life of in such communities.</p> <p>17. The law shall regulate the exercise of indigenous peoples' rights over their land and of joint-title farmers over their parcels, respecting their will to adopt the best conditions for the use of their productive resources. The law shall establish the procedures whereby the members of a cooperative and indigenous people may: associate among themselves or with the State or with third parties; grant the use of their lands; transfer their land rights to other members of their rural community, in the event of farming cooperative. The law shall also set forth the requirements and procedures whereby the cooperative assembly shall grant their members private rights over land. In cases of transfer of ownership, the right of preference set forth by the law shall be respected.</p> <p>18. Within a same rural community, no member of a cooperative can hold land exceeding five percent of the total land belonging to the farming cooperative. Land ownership must always adjust to the restrictions established in section XV.</p> <p>19. The general assembly is the supreme authority of the farming cooperative or indigenous community, within the organizational structure and powers granted by law. The communal property commission is a body democratically elected according to the terms provided by the law. It is the representative organ of the farming cooperative and the one responsible to carry out the assembly's decisions.</p> <p>20. Restitution of lands, forests and waters to rural communities shall be done according to the terms provided in the law.</p> <p>VIII.The following actions are null and void:</p> <p>21. a.All appropriation of lands, waters and mountains from towns, villages, settlements or communities, made by political chiefs, governors or any other local authority in contravention of the law published on June 25, 1856, and other applicable laws and provisions;</p> <p>22. b.All concessions, arrangements or sales of lands, waters or mountains, made by the Secretariat of Public Works, the Department of the Treasury or any other</p>
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	<p>federal authority from the first day of December, 1876, to this date, which have illegally invaded farming cooperatives, indigenous land or lands of any other kind belonging to towns, villages, hamlets or communities.</p> <p>23. c.All demarcation procedures, transactions, transfers or auctions performed during the period mentioned in previous paragraph and made by companies, judges or federal or state authorities, which have illegally invaded farming cooperatives, indigenous land or lands of any other kind belonging to towns, villages, hamlets or communities.</p> <p>24. The only lands excepted from the nullity herein mentioned are those which have been distributed in accordance with the Law published on June 25, 1856, and have been owned for more than ten years, provided that the area does not exceed fifty hectares.</p> <p>25. IX.Division or distribution made with error or vice among neighbors of a rural settlement may be annulled at the request of the three quarters of the neighbors who possess one quarter of the lands in question; or at the request of one quarter of the neighbors who possess three quarters of the lands in question.</p> <p>Large rural estates are prohibited in the United Mexican States.</p> <p>26. Small agricultural property is defined as the land which area does not exceed one hundred hectares of irrigated or damp soil per person, or the equivalent in other kind of soil.</p> <p>27. Equivalence: one hectare of irrigated soil equals two hectares of seasonal soil equals four hectares of good quality pastureland equals eight hectares of forest, mountain or arid pastureland.</p> <p>28. The following properties are also considered as small agricultural property: a) up to one hundred and fifty hectares per person when the ground is dedicated to cotton cultivation if the lands are irrigated; b) up to three hundred hectares when dedicated to cultivate banana, sugar cane, coffee, henequen, rubber, palm, grapevine, olives, quinine, vanilla, cacao, agave, prickly pear or fruit trees.</p> <p>29. Small livestock property is defined as the area that does not exceed the land necessary to maintain up to five hundred heads of big livestock or the equivalent in small livestock per person, in accordance with the law and with the fodder capacity of the soil.</p> <p>30. When the owners or users improve the quality of land by reason of irrigation, drainage or any other works, the land will still be considered as small agricultural property, even if it exceeds the maximum limits established for good quality lands, provided that the requirements established by the law are met.</p> <p>31. If the owner or user of a small livestock property improves the land and uses it for agricultural purposes, the area so utilized shall not exceed the limits mentioned under paragraphs second and third of this section corresponding to the quality of said lands before the improvement.</p> <p>XVI. (Repealed by the decree published on January 6, 1992)</p> <p>XVII.Federal and State Congresses shall enact laws establishing the procedures to transfer and divide out into plots large areas of land exceeding the limits set forth under sections IV and XV of this Article.</p> <p>32. Excess land shall be partitioned and sold by the owner within a term of one year from the date of notification. If at the end of such term the excess land has not been transferred, it shall be sold by public auction. Under equal conditions, the right of preference established in the Statutory Law shall be respected.</p> <p>33. Local laws shall organize the family estate, establishing which properties and goods must compose it. Family estate shall be inalienable and unencumbered</p> <p>XVIII.All contracts and concessions executed by previous governments, since 1876 to date, which have resulted in monopolization of national lands, waters and natural resources, under one sole person or company are declared subject to review, and the President of the Republic is empowered to declare any of them null and void whenever they imply a serious damage to public interest.</p> <p>XIX.Based on this Constitution, the State shall establish the measures required to provide agrarian justice in a prompt and honest manner, in order to guarantee legal certainty in land ownership. The State shall provide legal advisers for farm workers.</p> <p>34. All conflicts that could arise or are pending between two or more communities related to land limits or land ownership, are under federal jurisdiction. The law shall</p>
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		<p>establish agrarian courts vested with autonomy and full jurisdiction, which shall be made up of judges proposed by the President of the Republic and approved by the Senate or by the Permanent Commission during recess period.</p> <p>35. The law shall establish an agency that provides agrarian justice to peasant farmers.</p> <p>XX. The State shall provide good conditions to achieve total development in rural communities, for the purpose of creating jobs, guaranteeing welfare of the peasant population and their participation in national development. The State shall stimulate agricultural, livestock and forestry activities for optimal uses of the land through infrastructure works, supply of raw materials, credits, training and technical support. The State shall also issue the statutory law for planning, organization, industrialization and marketing of agricultural and livestock production, since these are activities of public interest.</p> <p>36. The comprehensive and sustainable rural development referred to in the previous paragraph shall also include, among its aims that the State shall guarantee the sufficient and timely supply of basic nourishment established by law.</p>
29.	<u>Montenegro</u> <u>2007 (rev.</u> <u>2013)</u>	<p>PART 24 ARTICLE 58</p> <p>Natural wealth and goods in general use shall be owned by the state.</p>
30.	<u>Philippines</u> <u>1987</u>	<p>ARTICLE XII SEC 2</p> <p>All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.</p> <p>The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.</p> <p>The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fish-workers in rivers, lakes, bays, and lagoons.</p> <p>The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.</p> <p>The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.</p>
31.	<u>Russian Federation</u> <u>1993 (rev.</u> <u>2014)</u>	<p>SECTION ONE CHAPTER 3 ARTICLE 721</p> <p>1. The following shall be within the joint jurisdiction of the Russian Federation and constituent entities of the Russian Federation:</p> <ol style="list-style-type: none"> 1. [...] 2. c. issues of the possession, utilisation and management of land and of subsurface, water and other natural resources;
32.	<u>Saudi Arabia</u> <u>1992 (rev.</u> <u>2013)</u>	<p>BASIC LAW PART 4 ARTICLE 14</p> <p>All God-given resources of the country, both under and above ground, or in territorial waters, or within terrestrial and maritime limits to which the State</p>

		jurisdiction extends, as well as the revenues accruing therefrom shall be owned by the State as specified by the law. Likewise the law shall specify the means to be employed for the utilization, protection and development of these resources in a manner conducive to the promotion of the State's interest, security and economy.
33.	<u>Slovakia 1992</u> <u>(rev. 2017)</u>	<p>CHAPTER ONEPART ONE ARTICLE 4</p> <p>1. Raw materials, caves, underground water, natural and thermal springs and streams are the property of the Slovak Republic. The Slovak Republic protects and develops these resources, and makes careful and effective use of mineral resources and natural heritage to the benefit of its citizens and subsequent generations.</p> <p>2. The transport of water taken from water bodies located within the territory of the Slovak Republic outside the borders of the Slovak Republic by vehicles or pipeline is prohibited. This prohibition does not apply to water intended for personal use, drinking water put into consumer containers within the territory of the Slovak Republic and natural mineral water put into consumer containers within the territory of the Slovak Republic; nor to water provided for humanitarian help or assistance in states of emergency.</p> <p>Details of conditions for transporting water for personal use or water provided for humanitarian help and assistance in states of emergency shall be stated in a specific Law.</p>
34.	<u>Turkey 1982</u> <u>(rev. 2017)</u>	<p>PART TWOCHAPTER THREE IIIA ARTICLE 43</p> <p>The coasts are under the authority and disposal of the State.</p> <p>In the utilization of sea coasts, lake shores or river banks, and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority.</p> <p>The width of coasts and coastal strips according to the purpose of utilization and the conditions of utilization by individuals shall be determined by law.</p> <p>Share article</p> <p>PART FOURCHAPTER TWOIIIARTICLE 168</p> <p>Natural wealth and resources shall be under the authority and at the disposal of the State. The right to explore and exploit these belongs to the State. The State may delegate this right to persons or corporate bodies for a certain period. Of the natural wealth and resources, those to be explored and exploited by the state in partnership with persons or corporate bodies, and those to be directly explored and exploited by persons or corporate bodies shall be subject to the explicit permission of the law.</p> <p>The conditions to be observed in such cases by persons and corporate bodies, the procedure and principles governing supervision and control by the State, and the sanctions to be applied shall be prescribed by law.</p> <p>Share article</p> <p>PART FOURCHAPTER TWOIVAARTICLE 169</p> <p>The ownership of state forests shall not be transferred. State forests shall be managed and exploited by the State in accordance with the law. Ownership of these forests shall not be acquired by prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests.</p>
35.	<u>Qatar 2003</u>	<p>CHAPTER IIA RTICLE 29</p> <p>Natural wealth and resources are owned by the State, which preserves and exploits them well according to the provisions of the law.</p>
Public property		
1.	<u>Algeria 1989</u> <u>(reinst. 1996,</u> <u>rev. 2016)</u>	<p>TITLE I CHAPTER III ARTICLE 18</p> <p>Public property shall be an asset of the national community.</p> <p>It shall encompass the subsoil, the mines and quarries, the sources of natural energy, the mineral, natural and living resources of the different zones, the national maritime zone, the waters and the forests.</p> <p>In addition, it shall be established with respect to railroad, maritime and air transports, the posts and telecommunications, as well as all other assets specified by an Act of Parliament.</p>

2.	<u>Portugal 1976</u> <u>(rev. 2005)</u>	<p>PART II TITLE IARTICLE 80 Society and the economy shall be organised on the basis of the following principles: [...] d. When so required by the public interest, natural resources and the means of production shall be publicly owned; Share article</p> <p>PART II TITLE IARTICLE 84 1. The following shall belong to the public domain: a. Territorial waters, together with their beds and the adjacent seabed, and such lakes, lagoons and watercourses as are suitable for navigation or flotation, together with their beds; b. Airspace over Portuguese territory, above the recognised limit for proprietary or surface rights; c. Mineral deposits, mineral and medicinal water sources and natural subterranean cavities below the ground, save such rocks, ordinary earth and other materials as may habitually be used for construction; d. Roads; e. National railway lines; f. Such other property as may be classified as such by law.</p>
3.	<u>Romania 1991</u> <u>(rev. 2003)</u>	<p>TITLE IVARTICLE 136 3. The mineral resources which are of public interest, the airspace, water resources that can be used for power production in the public interest, beaches, the territorial sea, the natural resources of the economic zone and the continental shelf as well as other assets defined by law constitute exclusive public property.</p>
4.	<u>United Arab Emirates 1971</u> <u>(rev. 2009)</u>	<p>PART IIARTICLE 23 The natural resources and wealth in each Emirate are deemed the public property of that Emirate. The community shall preserve and utilize in a good way those resources and wealth for the interest of the national economy.</p>
People's property		
1.	<u>Egypt 2014</u>	<p>CHAPTER TWOSECTION TWOARTICLE 32 Natural resources belong to the people. The state commits to preserving such resources, to their sound exploitation, to preventing their depletion, and to take into consideration the rights of future generations to them.</p>
2.	<u>Niger 2010</u> <u>(rev. 2017)</u>	<p>TITLE VII SECTION 2 ARTICLE 148 The natural resources and the subsoil are the property of the Nigerien people. The law determines the conditions of their prospecting, their exploitation and their administration.</p>
3.	<u>Moldova</u> <u>(Republic of)</u> <u>1994 (rev.</u> <u>2016)</u>	<p>TITLE III CHAPTER VIII ARTICLE 111 4. The soil, subsoil, waters, flora and fauna, as well as other natural resources on the territory of the autonomous territorial-unit of Gagauzia shall belong to the people of the Republic of Moldova and shall simultaneously constitute the economic basis of Gagauzia.</p> <p>TITLE IVARTICLE 127 4. All the underground resources, airspace, waters and forests used to the benefit of the public at large, natural resources of the economic regions and continental shelf, lines of communication, as well as other domains stipulated by law, shall constitute the exclusive province of the public property.</p>
4.	<u>Senegal 2001</u> <u>(rev. 2016)</u>	<p>TITLE IIWORKARTICLE 25-1 The natural resources belong to the people. They are used for the amelioration of the conditions of life. The exploitation and the management of the natural resources is made with transparency and in a fashion to generate economic growth, to promote the wellbeing of the population in general and to be ecologically sustainable. The State and the territorial collectivities have the obligation to see to the preservation of the land patrimony</p>

АШИГЛАСАН МАТЕРИАЛ

- Ш. Цогтоо “Гадаад орнуудын Үндсэн хуулийн эрх зүй” 2018 он.
- Олон улсын Үндсэн хуулийн нэгдсэн сан www.constituteproject.org
- Nicholas Haysom and Sean Kane, Negotiating natural resources for peace: Ownership, control and wealth-sharing, Centre for Humanitarian Dialogue, 2009
http://comparativeconstitutionsproject.org/files/resources_peace.pdf
- Rasmus Heltberg, Property rights and natural resource management in developing countries, Journal of Economic Surveys Vol. 16, No. 2, Blackwell Publishers Ltd. 2002, <http://gsdrc.org/docs/open/ssaj39.pdf>
- Permanent Sovereignty over Natural Resources, General Assembly resolution 1803 (XVII), New York, 14 December 1962,
http://legal.un.org/avl/ha/ga_1803/ga_1803.html
- Нямдоогийн Баярмаа, Байгалийн баялаг дахь эзэн орны байнгын бүрэн эрхийн зарчим болон уул уурхайн салбарын техник эдийн засгийн үндэслэлийн хууль зүйн үр дагавар, <http://legaldata.mn/b/315>