

Some legal problems of stating the shikhans of Bashkortostan as a “natural monument”

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All legal accents in respect of protected nature areas are intended to withdrawal of natural territories from economical sector. However, if an organization of nature reserve areas decreases the economical potential of a state, then parks overcrowded by tourists look like social and economical misapprehension, and the creation of the parks and natural monuments themselves is evidently a mistake. “Properly speaking, keeping the natural balance on the whole region of habitation meets only the interests of a primitive tribe which exists through hunting and gathering of wild fruits and berries and that is at least when it has a stable population. Existing of the rest forms of social structures including growth of population and increase of life level is surely connected with transformation of the ambient on the area of habitation” (academician Fedorov E.K.). When the parks, nature monuments appear, there arises a conflict of interest that intensifies lately: Don’t the “greens” call for the big damages from people and industry withdrawing natural resources forever? Is that possible to object that woods, water, meadows, mountains, grass and wild animals are needed by the people? The answer is clear, but it has a big problem on the other hand: how to weigh the efficiency of usage and the efficiency of non usage, preservation of one or another natural resource, how to ensure the balanced development of natural reserves for the industry? To preserve the virgin nature and to abandon the development of manufacturing, to let the unemployed go and enjoy themselves in the reserved areas admiring the nature monuments or to further development of manufacturing with well considered policy in the field of environmental protection, keeping in mind that we are already living in a “second nature”? How to eliminate irritatory factor from a certain part of the people who

are against of transmitting of nature resources to “offshore structures” and are still forgetting that “private hosts” have thousands of hired workers?

There are different approaches when selecting the areas for special protection that have led to creation of parks, nature monuments. To all the approaches we should outline the religious and cult reasons when giving a status of “nature monument”. In some way, the protected areas corresponded to the peculiar “cult reserve parks” that had wide spread occurrence in some indigenous peoples of our country who have retained those or that forms of heathenism (shamanism, etc.) in their religion. All these approaches and the functions themselves of the singled-out areas (mountains, hills, etc.) are much diversified and sometimes very hard-distinguishable. If it is not well enough defined in the protection documents, it can lead to unpredictable effects after giving a status of nature monument to a mountain which is a raw material base of an enterprise. It is almost impossible to separate the resource protection function from the raw material function or the city-forming function and to entertain all the opinions: science, national, religious, political, emotional. In Bashkortostan the nature monuments are identified as unique, irreplaceable, valuable in ecological, science, culture and aesthetical respect complexes and their components, as well as the objects of natural and artificial origin. Nature monuments are divided by categories and types and are defined by the Decision of Bashkortostan Government and by the Decision on Nature Monuments. There is no information about cult type in the Decision.

The Shikhans Tratau, Shakhtau, Yuraktau and Kushtau are situated near the city of Sterlitamak and essentially are the residual of ancient reefs, which were formed in the sea more than 250 million years ago. In the pieces of limestone there are imprints of ancient plants and animals left. The mountain Shakhtau is being used as a raw material source for Bashkir Soda Company JSC (BSK) and is almost exhausted. By the enterprise development primary plan it was supposed that in future the further shikhans would be used as a raw material source, firstly Tratau and Yuraktau. However, later on they were marked as “nature monuments of

regional importance” by the Government of Bashkortostan. That made very difficult to solve the raw material problem for BSK.

From the legal point of view, we think that, rating certain objects as a specially protected territories, including nature monuments by the Government is not lawful. We need to solve the issue on the legislative level at the Kurultay (State Assembly) of Bashkortostan by the airing the problem with entertaining the opinions of different parts participating in solving the issue. The representatives of political parties, social associations and independent deputies must have an opportunity to express their opinions on the issue, to make a social discussion, to meet the voters, to explain their attitude with conclusions on what will the rating of an object as a nature monument will lead to. To tell what positive or negative effect will get the citizens of the nearest areas, what damage would be inflicted to the industry of the area and what would be the benefit for the citizens. And after that the issue should be introduced for a vote. The system of protected nature areas is effective until each of its participants fulfils its own function. That must be agreed on the legislative level, otherwise the efficiency from protected nature area (nature monument) is null. The decision made by the State Assembly will not let the supreme leader of the region to decide single-handedly whether to let the raw material deposit for developing or not, as it is happening now. We need to write precisely in the law the order of removal of status “nature monument” from an object that is a raw material source for manufacturing, and who can initiate the process, possible compensations (buyout) for the removal of the status and the order of removal. If the status “nature monument” will not be removed by the legislative body, then measures for budgeting the expenses for developing of new raw material deposits from the region funds should be foreseen. **From the scientific point of view**, the shikhans Tratau and Yuraktau as the separately situated mountains are not of interest. Everything about the origin of shikhans, their chemical and physical composition, about the petrifications inside, about other peculiarities could have already known from observations during developing of mountain open cast of Shakhtau. It is possible that in other shikhans there are

unexplored petrifications, etc. for the science, but without developing we can never know what is inside, what paleontological value and what has the tropical ocean buried hundreds of millions of years ago. We should not dramatize the situation about 19 critically endangered species of rare plants on shikhan Tratau and the animals to protect. You can find similar snakes, grasshoppers, cockroaches and plants in other regions of Bashkortostan, Russia and world. Nature protection component of those who are against the transmission of shikhans for economic use raises big doubts especially if we take into account opposition of thousands of unemployed citizens of Sterlitamak and its suburbs. **From the social point of view**, it is possible that shikhans are of interest as the objects of aesthetic and recreation value. However, it is clear that for recreation, recovery and maintaining of health the shikhans have no prospects from legal point of view. As an example it can be the recreation camp at Tugar-Salgan Lake, that is at the foot of the Tratau, which has a status of “natural monument” too. According to Bashkir Nature Protection Public Prosecutor's Office, local business owner runs his business with violation of the Act on Especially Protected Nature Territories. The Act says: “On the territories where the nature monuments situated, any activity that leads to violation of preservation of nature monuments is forbidden”. **Cultural and historical point of view** is the main argument against the transfer of shikhans for developing. Let’s come up with their argument: ”...For the Yurmaty bashkirs, the descendant of whose are inhabiting the nearest villages, the shikhans are sacred. Lepekhin I.I. witnessed that in his time (1768) the neighboring citizens climbed up Tratau only on special occasions, doing some sacraments preliminarily; to take something from the mountain was considered to be a crime”. Lepekhin I.I. continues: “Being sorry about Bashkir delusion, ... I tried to show them that the mountain cannot influence the people and it does not deserve any sacraments”. The opponents forget about that fact when they call the mountain “sacred”. “How can a mountain Tratau be sacred? How can one worship it? The people believe in Allah and do not worship any rivers, mountains” – outrages imam - khatib Rishad hazrat of Sterlitamak.

Certainly, shikhans are unique nature phenomenon, you can say a “museum in nature”. But let us also admit a thing that, such museums in nature should be visited by people who are sure of the tomorrow, who are provided by work. Unfortunately, in the furious fight of opponents against transfer of shikhans for developing of raw materials covered by “nature monument”, antagonistic moods are growing. If the common sense among opponents of transfer (scarcely ever competent) and the authorities of Bashkortostan will not prevail over for the constructive dialogue with participations of all the interested parties, the result for BSK would be tragic. At this time, only a thoroughly prepared Act of Bashkortostan on “nature monuments” passed with participations of all the political parties, movements, deputies of different level, citizens and laborious task of the authorities and managers of different level including land owners and enterprises can change the situation.