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## Formation of Land Use System In Uzbekistan: Past and Today

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### Abstract

*Terminology of land management issue has accepted differently in every country. The article depicted the formation of land-use systems in Uzbekistan starting from 8<sup>th</sup> century till nowadays. Research has stricted with current Uzbekistan territorial boundary and its predescent states of government. Research shows how land use and landowning has changed in Arab invasion, in Temurid system, in Khanate, Soviet and independence period. The article discussed how land use terminology changed through different land policy existence in times. Land-use planning has been discussed for every period and differences. How political changes altered the land-use system in a particular period of time, based on interests of head of empires influenced on planning system, from primitive to complex land use, how the land-use system has shaped of traditions of local people have been elaborated. Land relations after gaining independence have been thoroughly studied and showed pros and cons of formation of land use in nearly last 30 years.*

**Key Words:** Land Use Planning, Land Cadaster, Khanate, Temurid, Soviet, Land Use System, Kolkhoz, Sovkhoz,

### Introduction

Uzbekistan is landlocked and located in Central Asia. It has long history starting from 2500 years back. Even though Uzbekistan has got its name a century ago, but historically Uzbekistan played major role locating in line with Great Silk Road, center of Great Tamerlane Empire, etc. Land management started in 500 BC Tashkent, Samarkand and it has been gradually improved and enhanced based on respective times laws. Uzbekistan has seen many system of land management. Most of them were focused on collecting tax/money to enrich budget of ruling empire. And villages, towns and cities expanded because of population increase, hence letting reclaim the land.

As young independent country Uzbekistan is in transition period to market economy. Uzbekistan declared its independence in 1991. In this period there were several positive changes in land management and real property market. There were made many important reforms in legislation and organization governmental structure. Properties are sold in real property market and on auctions. So far four resolutions have been approved regarding realization (sale) of land plots with dimensions of 0.04-0.06 hectare for residential purposes. There are also changes in Land Code, four articles determine sales of land plots.

Nowadays, Uzbekistan is in a process to implement *real* privatization process and ownership of land plots in residential areas and the industrial sector. Though President of Uzbekistan signed decree on privatization of land plots; privatization activity and process are still not clear yet. The thesis investigates reasons, obstacles, and problems that slow land privatization process.

### Field of Study

Uzbekistan is located in Central Asia. Republic of Uzbekistan has been used shortly only Uzbekistan. Study area covers current Uzbekistan geographic location and neighborhood around. It is landlocked country bordered with Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Afghanistan. Uzbekistan has ancient history of more than 2000 years. Starting from Turan, Khwarezm, Bactria, Sogdia, Ferghana, etc. 125-250 BC Greek ruled this space, later on Sasanian and Arab conquered the area which is called now Uzbekistan. Chingizkhan's invasion later Temurid got independence from Mongols. After Uzbek Shayboniy dynasty, Russian conquered the place. Every time has its own way of ruling land use. System was applied based on that time ruler.

### Materials and Methodology

Research is done thoroughly studying land use history and legislation basis of Uzbekistan from 9<sup>th</sup> century till now. Facts which links to historical dates are based on books written about history of Uzbekistan. All available history books related to land management have been comprehensively studied. Also, decrees, law and codes are discussed accurately in order to understand land use planning system in Uzbekistan.

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## Results and discussions

Cadastral system has key role in any land reform and development of land tenure system. Land evaluation is still done in an old-fashioned Soviet valuation system. It is based on productivity of land and building located on it. Currently for assessing land tax in cities economic zones are applied. Economical zoning of city is based on results of natural productive potential value of territory. In this valuation, productive resources are estimated and influence of city forming factors, which increases the value for users of land plots, are not included. This method of valuation is still applied.

Improved system of land market after privatization leads to development of mortgage system and achieving real market prices of real property. Mortgage bonds can safely be issued by banks in order protect to banks from possible risks or losses. Clear rights to land, efficient land management and registration are vital part of privatization process; these procedures guarantee efficient land use, protection of land use rights, creation condition for land market and hence for improvement of Uzbekistan economy.

Privatization will bring many changes and begin to create condition in developing land market which will have solid impact in transition period to market economy of Uzbekistan.

There are significant changes in Uzbekistan towards use of market economy approaches and market valuation of rural lands. The progress can be described as slow, and even if it is based on laws and regulation, wholehearted support seems not to be given by the administration. It must also be mentioned that purchases and sales are complicated transactions that require a great amount of documents, some of which seem to be unnecessary in a market economy. It has to be mentioned property rights to land are thus one of the most powerful resources and capital, when lands with ownership rights are given. Land rights are often a vital element when households balance their capabilities and assets, and determine their resulting strategies to cope with their rights. Process of privatization will bring power to land user at the same time some problems may arise in new relation with government and financial institutes. Main key of proper solving of these problems is taking all of them under right legislation and creating lawful conditions for all parts participating in land using and ownership.

Determination of different kinds of land plots located especially in urban areas should be based on their tenancy purposes. For instance, industrial land plots, land plots under infrastructure, transportation system, with social value and residential. They all have different purposes and different valuation and land taxation should be applied. There is no such a system is developed yet.

Uzbekistan was the fifth largest agricultural producer in Soviet Union, in the first place by the arable land size. Its total area is more than twice as British, more than total sum area of Greece, Denmark, Portugal, Netherland and Austria.<sup>3</sup>

Prior joining to Soviet Union (October 27, 1924), Uzbekistan land tenure was regulated by Adat (local traditions) and Islamic law (Sharia law). State ownership existed along with private ownership. The ruler, the Khan/Emir owned most of the land. Main legal source of land tenure as well as other Islamic laws was a book named "Al-Hidaya". Source of Islamic legislation were norms and rules of conduct for the citizens of Islamic countries, listed in the legislative acts stemming from the Holy Quran, the Sunnah, Tafseer, Idjmaa, Kiyas and other legal foundations of Islamic law<sup>4</sup>. According to Islamic law land could be object of trade, rent, object of gift and heir. Land could be owned by converting undeveloped land to arable land for certain period of time. This created condition to person own and utilize land portion, hence own it.

Three types of land ownership existed: 1) *Amlaq lands* - land belonged to state; 2) *Private lands* – land belonged to local people as a private property; and 3) *Vaqf lands* – land was attached to mosques & madrasa (Islamic school) and graves. For instance in middle of XIX century, Khanate\* land was 16,000 tanob<sup>5</sup>, private lands 134,000 tanob, vaqf lands 165,000-170,000 tanob in Khiva Khanate<sup>6</sup>

There were Khorezm Khanate, Kokand Khanate and Bukhara Emirate\* in Central Asia. In the beginning of 20<sup>th</sup> Century, those Khanates and Emirate were abolished and five new countries were formed. They are Uzbekistan SSR, Kazakhstan SSR, Kyrgyzstan SSR, Tajikistan SSR and Turkmenistan SSR. After October revolution in

<sup>3</sup> V.Proshljakov, G.Talipov, L.Kondratev «Land resources of Uzbekistan and their use», Uzbekistan, Tashkent, 1979

<sup>4</sup> Land law, A.N.Nigmatov, Adolat, Tashkent, 2000

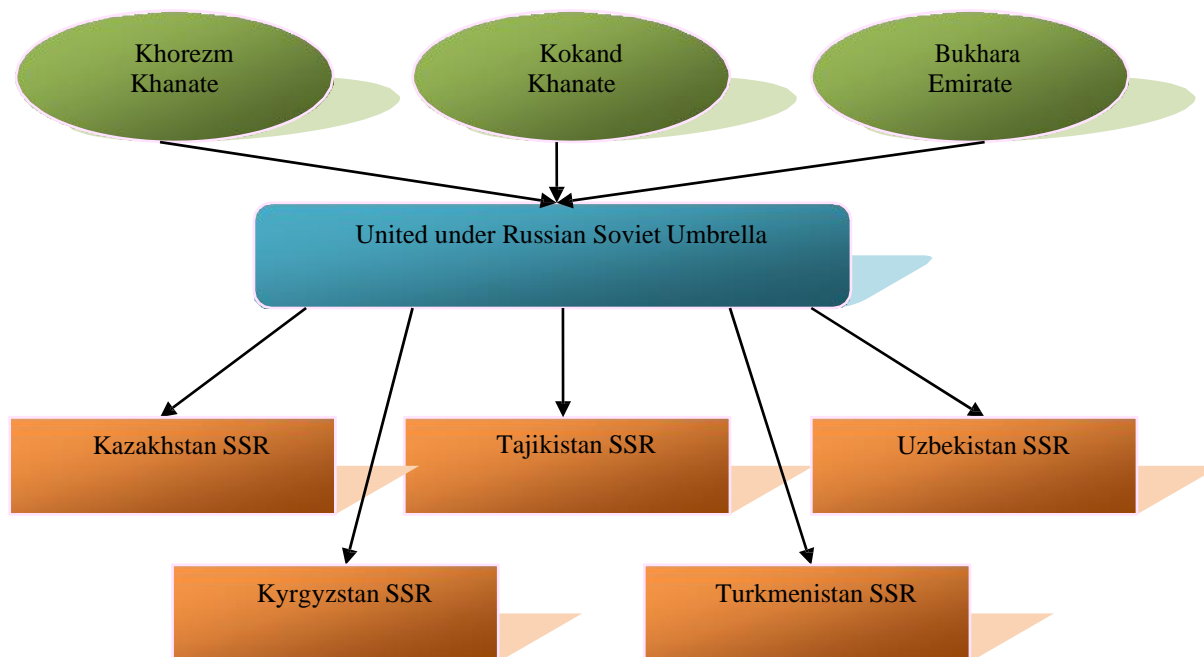
<sup>5</sup> Tanob – land measurement unit, it varied in size in different parts. Approximate measurement, one tanob was equal to from 1/6 to 1/2 hectares.

<sup>6</sup> M.J. Yuldashev. History of Khivan peasants XIX century. Fan, Tashkent, 1966.

\* *Khanate* – a political entity rules by Khan, i.e. empire



1917, Khorezm Khanate joined voluntarily while Kokand Khanates and Bukhara Emirate joined under Russian pressure.



**Figure 1** – Abolishing of Khanates and formation of 5 countries

Parliament was established and Lenin's *Decree on Land* passed through Parliament in the same year<sup>7</sup>. Decree on *Nationalization of Land* was passed by Soviet Central Executive Committee in February 19, 1918. It abolished all forms of ownership except State ownership. All land was taken away from previous land owners and then land was equally distributed among local people for free of cost. Nationalization of land was carried out without any compensation to former landowners. Decree *On Land* stated: *All land is public property and given back to those who work on it. Forms of land use must be absolutely free: homestead, farm, community, artel, some other condition may be applied based on some particular towns and villages.* There were 975 communes and 604 artels established in 1918. Later in the same year the first soviet state farms were established and reached 3101 at 2 mln. desyatina<sup>8</sup>.

Between 1920-24 all Soviet communities in Central Asia began to follow Russia and adopt Russian laws. Central Asian countries' national borders were drawn in 1924, and following these events new Soviet Socialistic Republics were created. Uzbekistan Soviet Socialistic Republic (UzSSR) adopted Constitution in 1927 which abolished all types of ownership except state ownership to land. The Constitution was the final stage of abolishing land from rich owners. According to art.21 of *Civil Code* (1928) *land was national wealth, and it cannot be subject to trade.* Land could be distributed for use. Afterwards collectivization program implemented widely across the country between 1928-1940. There were 410 kolkhozes in Uzbekistan by February 1928<sup>9</sup>. As a result of the land reform between 1925-1929 approximately 94500 *dehkan* farms got 231,9 thousand desyatın lands. In 1930 the number of kolkhozes reached to 1975 units.

By the middle of 1930, agricultural collectivization program slowed down. In 1937 *Land Code*, and the second *Constitution* was passed while land remained under public property. Lands were distributed with right to use for life-time term (for kolkhozes unlimited term, for residents long term). Two major agricultural producing entities existed, kolkhozes and sovkhozes.

<sup>7</sup> Decree About Land October 26, 1917, Second Congress of Soviets

\* *Emirate* - a political territory that is ruled by a dynastic Muslim monarch styled emir

<sup>8</sup> S.Sharipov, History of Land management and tenure (Lecture notes), TIIM, Tashkent, 2000, pg.21 [(Russian land measuring unit. It is known since XV. Desyatina measured with two quarters and was a square with sides of 1/10 verst (1.067km) or 1.09 ha) description from <http://bse.sci-lib.com/article024415.html>, retrieved 08.05.2019]

<sup>9</sup> Writing the History of Collectivization in *Uzbekistan: Oral Narratives*, retrieved 10.11.2010

Sovkhoz (from Russian совхоз - *советское хозяйство*, a state collective farm/enterprise) was state owned farm where members of the farm receive a fixed wage. Land was distributed among rural people to join sovkhoz. State invested on inventory, machinery and funded its budget.

Kolkhoz (from Russian колхоз – *коллективное хозяйство*, a collective farm/enterprise) was voluntarily joint cooperation of peasants for agricultural production. Kolkhoz consisted of artels. Wage was paid based on harvest and working days. Contrary to sovkhoz, kolkhoz members could have a small size of land and a few animals.

“Land, owned agricultural *artel* (like other land categories in USSR), is state and public wealth, - 2<sup>nd</sup> paragraph of *Statute of Agricultural Artel* says. It was, based on State Law *On Labour*, attached to artel for perpetuity, it is neither subject as an object for sale nor rent.” Reduction of this land area is not allowed. It is allowed to increase only by transferring from excessive land held by an individual farmer, so overlapping is not allowed at the same time.

According to art.7 of the USSR *Constitution* and Law *On Household Land Plot Use*, every peasant had a right to hold a household plot. This land parcel is allotted from collective farm land for every *kolkhoz* member for private land use (gardening). Size of the household land, located in the personal use of collective-farm households (excluding land for residential buildings), the 2<sup>nd</sup> paragraph of collective farm statute says – it could range from ¼ to ½ hectare in some areas and up to 1 hectare, depending on the regional and district circumstances, imposed by the Commissariat for Land based on USSR People's Commissariat.

The Central Committee of the Communist Party and Council of People's Commissars of the USSR issued a Decree *On Measures of Protection of Public Lands from Collective Squandering* on May 27, 1939. Though right could be canceled if:

- land is given to another newly established kolhoz
- if land holder moves to another kolkhoz
- in case of selling, buying, giving as a gift, lease (land use right, not land parcel)

According to the Decree, one of the family member must meet minimum required working days at the kolkhoz to obtain land plot for household. The Central Committee of the Communist Party and Council of People's Commissars of the USSR adopted Regulation *On Household Land of Office Kolkhoz Workers, Rural Teachers, Agronomists, and Others not Members of Collective Farms of Local Villages* (July 28, 1939) which put further restriction of land use. According to this regulation land for other workers, rural teachers, agronomists, and not members of collective farms homestead land (small private land plot) must not exceed 0.15 hectares, including the area occupied by buildings. Between 1947-1967 household land size was 25.9 – 25.5 thousand hectares in Uzbekistan<sup>10</sup>.

Conversion of irrigated lands to non-irrigated land was very restricted, as it was the main means of agricultural production in Soviet Union. Its importance could be noted in L.I.Brejnev speech on third USSR Congress of collective farms:

«... *Soil protection is our all responsibility. Damage to any amount of soil needs to be treated as an anti-society act. One who damages own land, and does not try to increase its fertility, disrupts the main source of society prosperity*».

According to Decree on *Procedures of closely scrutinize of land allotment issues* on January 20, 1949, land allotment to kolkhoz workers was strongly restricted. Following year Uzbekistan SSR government passed Decree *On Size Norms of Household Land Plots in Kolkhozes in Uzbekistan SSR and Decreasing Animal Heads* on January 24, 1950. According to the Decree, land plots were given in following sizes: from arable land 0,12-0,15 hectare, from not arable 0,4-0,5 hectare per family.

On following session of Supreme Soviet of Soviet Union in 1968 passed Decree on *Principles of Land Legislation of the USSR and Union Republics*. Due to several reforms there was a need for new Land code which was adopted in 1970<sup>11</sup>. According to Land Code State ownership remained in place, land could be given for usage, its use is free and given through distribution, other means/types of allotment is banned. Land was allotted for agricultural purposes such as sovkhoz, kolkhoz and local residents for dwelling/housing.

<sup>10</sup> G.S.Gubaydulin, I.D.Sattorov, J.N.Fokin *Help to land measurer*, Selkhozgiz, 1944

<sup>11</sup> *Land code of Uzbekistan USSR*, Uzbekistan, Tashkent, 1982.

Uzbekistan SSR's third Constitution which states land was public property and owned by government. However, citizens could acquire land household plots for purposes such as horticulture/gardening and constructing of household. Maximum five families were permitted to live in one household plot due to legislative restrictions.

By the end of 80's major land tenure reforms started. For instance, on July 8, 1989 meeting of Uzbekistan SSR Ministries concluded with decision not to limit household lands size, which was instead determined by local resources availability and no limits for keeping household cattle head units. In 90s Soviet of People's Deputies begin to provide land for purposes such as "... possession, use and rental for citizens, enterprises, institutions and organizations, and also to perform ... tax payment for the land ... monitor and protect over land use (art.13, Fundamentals of Legislation of the USSR and Union Republics *On Land*). According to Regulation #258 on 15.08.1989 land plots were granted for families in rural areas. 1.5 mln Uzbek families were able to expand their *homestead land* and 0.5 mln families granted new land plots, in total 11 mln. people had solved their needs on land problem. This reform fulfilled most of population's demand for land. This reform continued from 1991 till 1995. All families in rural areas were provided with land.

Law *On Land* was passed on August 1, 1990. Due to *Perestroika*<sup>12</sup> campaign and passing of new laws more rights were attached to land tenants. From 1990 government began to give «small farmer household» (*tomorka*) up to 0,25 ha, which was meant for agricultural production. Lands located under construction of trade and service sector was allowed to sell as private property since 1994.

Presidential Decree *On Improving Efficiency Of Land Use* says land plots upto 0.04 hectares for construction of individual dwellings and 0.06 hectares for household farming, were allowed to sell to local residents at auction with lifetime inheritable possession right. Moreover, there was an implementation of a land auction and offering of land in a competitive basis with lifetime inheritable possession for citizens. These lands had to be not used for the national economy, and could come from marginally unprofitable agricultural enterprises. The size of allotted land should not exceed 5 hectares in the irrigated areas and 15 hectares of land in non-irrigated areas. These actions were the first step toward market relations. Kolkhozes and sovkhoses were transformed into *Shirkat* (State) and *Jamoa* (Collective) farms. According to President's Decree *kolkhoz* and *sovkhos* had to be transformed into self-maintaining farm system on March 16, 1990.

Uzbekistan declared its Independence on August 31, 1991. All new independent countries of former Soviet Union adopted their own way of transition to Market Economy. New Independent countries were interdependent on each other because of Soviet Union industrial design. Each country heavily depended on particular industry. Dissolution of Soviet Union created vulnerable condition in terms of food production and essential agricultural products such as wheat, cotton, meat and others. Uzbekistan being as cotton and grain producer, maintained economic stability better in beginning of Independence comparing to other independent states.

Uzbekistan faced several problems such as entering world cotton and grain market. Technical maintenance of agricultural machinery was dependent on mainly Russia, Byelorussia and Ukraine's import. Land legal framework was not well developed, until 1998. Uzbekistan chose gradual, "step by step" transition to Market Economy. President Karimov said in his book, (2009) *The global financial crisis, ways and measures to overcome it in Uzbekistan*:

*We have chosen an evolutionary approach to the transition from authoritative to market-based management, the path of gradual and incremental reform, acting on a well-known principle: "Do not destroy the old home until you build a new one"*

Therefore, Uzbekistan government drew attention on creating several types of land users to find out compatible farming enterprises in market economy condition. A constitution was adopted on December 8, 1992. The constitution did not restrict ownership to State.

Art.53 of the *Constitution* says:

*The economy of Uzbekistan, evolving towards market relations, is the property in its various forms. The State guarantees the freedom of economic activity, business and labor, with priority of consumer rights, equal rights and legal protection for all forms of ownership. Private property, along with other forms of property is inviolable and protected by the state. The owner may be deprived of it only in the cases and manner prescribed by law.*

Dehkan\* (family) farms began to receive support from government as they were the main means of supply of essentials such as wheat, horticulture products and meat. Trade and export of those essentials to other countries was difficult and costly. Therefore government focus was on dehkan and commercial farms. Dehkan and

<sup>12</sup> Perestroika (translation from Russian Reconstruction). This began from 1985 until 1991 dissolution of Soviet Union.

\* Dehkan farms further shall be called - Dehkans

commercial farms were treated as the same entity until 1996. From 1992 and on lands given with right to use were changed into open ended land use.

Following enterprises existed in the beginning of independence:

**Kolkhoz and sovkhov** remained the same with less or no support of government. Government was their only customer.

**Peasantary (Dehkan)** – small land plot holders. Land was given for dehkan farms. Size of irrigated land was 0,35 ha, non-irrigated land 0,5 ha, in pasture and deserted areas up to 1,0 ha. Citizen had to be living in the community for at least three year to be granted land for Dehkan farms.

**Commercial farms** – commercial type of enterprises which made a contract between Collective or State farms. Period of lease was minimum ten years. Commercial farms were secondary user of land till Law *On Farmers* (1998) was passed. From 1998 commercial farms became the main entities of agricultural production (art.3, Law *On Farming*). Land size had to be minimum 30 ha for cotton and wheat, for horticulture, viticulture, vegetable growing and cultivation of other crops minimum 5 ha. Commercial livestock farms were created by the availability of stock of at least 30 conventional animals. Depending on regional land availability, per head of conditional livestock minimum 0,3ha or 0,45ha from irrigated lands, from non-irrigated lands minimum 2 ha.

**Pay pudrat** was a family based working group on land plot, which leased land from sovkhov or kolkhoz.

**Specialized farms** in seeding, breeding, farms field for field research purpose etc.

**Additional (auxiliary) farms** of organizations, institutions and enterprises.

All previous kolkhozes and sovkhovs were restructured and transformed into Agricultural Cooperative (further shirkat) or other form of farming enterprises in 1998.

**Agricultural Cooperative (Shirkat)** – sole entity with legal personality, based on a mutual basis, and mostly family (collective) contract, a voluntary association of citizens for the production of agricultural goods. Its land cannot be privatized or be object of purchase and sale, mortgage, donation or exchange.<sup>13</sup>

Those agricultural cooperatives played the main role in decentralization agricultural enterprises. However, State remained as main customer of cotton and wheat and other strategic agricultural products with its determined price. Dependency on State investment, remaining a bureaucratic system and old-fashioned type of management, and lack of experience in market economy lead many agricultural enterprises to failure and bankruptcy. This condition affected mostly to shirkats.

Since independence was declared, various waves of reforms in land management and agricultural industry were taken place:

**First wave's** main focus was on structural and institutional reforms in agrarian sector. In the process of restructuring state-owned agricultural enterprises, those were transformed into various forms of non-state enterprises. Even though it was called privatization and decentralization, its goal was to create less budget dependency and efficient agricultural enterprises. Moreover, it had to achieve self sufficiency in food. Uzbekistan began to decrease size of cotton fields.<sup>14</sup> In 1996-1998, it achieved comparatively self sufficiency in domestic food. This gave strong basis for development of dehkans and commercial farms. By 1996, the share of private sector (dehkan and commercial farms) in agriculture accounted for 99%.<sup>15</sup> Major structural changes have occurred in the redistribution of land resources and crop production. This condition created a base for development of private agricultural producers. Commercial farms and dehkans began to show its competence in market.

**Second wave (1998-2003)**, came in 1998 by creating a legal base for medium size agricultural producers – commercial farms. The adoption of laws on *Land Cadastre*, on *Farm Enterprises*, on *Dehkan farms* and *Agricultural cooperatives (shirkat)* identified the framework and regulations in land management, and created law-regulatory framework of land use. Ongoing structural changes, creating farm enterprises have a solid foundation after unprofitable and marginally low profitable shirkats. Laws on *Dehkan* enterprise and Law *On Farm* enterprise explained their difference which was confusing at a glance. Though farm enterprise is legal entity which has a legal title, its own stamp, bank account, employs labor, machineries. Farm enterprise can produce and sell (export) agricultural products while dehkan enterprise can produce only for his/her family needs

<sup>13</sup> Law on Shirkat (state) farms Art.1 <http://zakonuz.narod.ru/> retrieved on 08.06.2019

<sup>14</sup> On measures of state support to dehkan and farms, strengthening their role in food supply of country, Presidential decree, #1737, 18.03.1997

<sup>15</sup> State agrarian policy, A.A.Abduganiev and others, Akademiya, Tashkent, 2006



only, so it cannot sell agricultural products. The right of use can be inherited but it can not be traded and sold. The Land Code reconfirmed the land status as it belongs to State. The restructuring of the country's agricultural enterprises have increased the number and area of agricultural cooperatives (shirkat), developed new organizational/managerial and legal forms of farming - it could be commercial farms and privatized livestock farms and various types of cooperative, joint stock and other agricultural enterprises.

**Third wave (2003-2007)**, was to find competitive and effective land user. After monitoring productivity of different type of land users, government decided to promote dehkans and commercial farms rather than shirkats. In 2003 Presidential Decree #3226 all type of farms and shirkats land turned to lease base and was basis of abolishing all sovkhazes and redistribute it to dehkan and commercial farms as well as for other purposes. Commercial farms were given lands for minimum 30 years and maximum of 50 years.

**Fourth wave (2007-2011)**, focused to encourage commercial farms emerge, to increase the size of farmland 50 hectares and up. This reform finished in 2011. In 2010 all shirkats were dissolved except those specialized in seed production and breeding. In 2007 number of commercial farms were 224000, in 2008 November after optimization process 106000 commercial farms were left, in 2009 it decreased to 86000, by 2010 commercial farms numbers came to 66000.

**Fifth wave (2014-present)**, was optimization of farmland in all regions of Uzbekistan. One of criteria was to create job place in rural areas and to use land effectively in terms of financial and physical capability of a person. So optimization was 100 hectares in the most regions however in Kashkadarya region it is allowed to have more than 100 hectares. Because population density is much less comparing to other provinces.

Real step toward privatization was seen by Presidential Decree *On Privatization of Land Plots, Occupied by Buildings and Constructions of Industries* adopted in March 2019. According to this decree land plots under household and commercial trade places, e.g. shops are going to be privatized. Land under apartments will not be privatized since they are considered common land. Next logical step is going to be a privatization of lands under industrial sector, and then agricultural lands.

## Conclusion

Every period has been discussed in thoroughly. Each period has its own way of implementing land use system. Arab invasion introduced land use system based on Sharia law. State ownership existed along with private ownership. However, land was owned by people for indefinite time and inherit it for the next generation. But land has to left open if state need to building strategic construction (road, railways, etc). Independence has not changed ownership but introduced new land use system. Small and large farms covered all agricultural land. Recently, President's decree launched to let land ownership for industries. Ownership is expected to be shaped slightly next few years.

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