

REGULATION OF PUBLIC
UTILITIES & NATURAL
RESOURCES

What are NR?

To whom do they belong?

How are these to be classified?

As renewable/non R?

As scarce or abundant?

Is spectrum a scarce resource?

It is a NR?

Can state do anything it likes with NR or are there some constitutional restrictions?

What are these?

And how are these to be enforced?

Buurakar Coal: People are the pol sovereign; state is the legal sovereign?

What does it mean in theory and practice?

Is this a distinction without difference? Kelsen

For example, must these always be auctioned or other principles be allowed to operate?

"At the outset, we consider it proper to observe that even though there is no universally accepted definition of natural resources, they are generally understood as elements having intrinsic utility to mankind. They may be renewable or non renewable. They are thought of as the individual elements of the natural environment that provide economic and social services to human society and are considered valuable in their relatively unmodified, natural form. A natural resource's value rests in the amount of the material available and the demand for it. The latter is determined by its usefulness to production".

The judgement then goes on to say that "Natural resources belong to the people but the State legally owns them on behalf of its people and from that point of view natural resources are considered as national assets, more so because the State benefits immensely from their value. The State is empowered to distribute natural resources. However, as they constitute public property/national asset, while distributing natural resources, the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest. ...In Article 39(b) of the Constitution it has been provided that the ownership and control of the material resources of the community should be so distributed so as to best sub-serve the common good, but no comprehensive legislation has been enacted to generally define natural resources and a framework for their protection. Of course, environment laws enacted by Parliament and State legislatures deal with specific natural resources, i.e., Forest, Air, Water, Coastal Zones, etc"

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