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from Persian and Turkic writings). Compiled by: Ibragimov S.K., Mingulov N.N., Pishchulina K.A., Yudin V.P. - Almata-Ata: Science, 1969. - 487 p.

9. Kazakhstan in the XV-XVIII centuries. Edited by Suleimenov B.S. - Alma-Ata: Science, 1969. - 201 p.

10. National Archives of the Republic of Kazakhstan, F. 83. Op. 1, n/a 123.

11. Sultanov T.I. Kazakh Khanate and Kazakh zhuzes. [Electronic resource]. 2022. URL: [https://www.neweurasia.info/archive/2000/top5/02\\_22\\_Nazp01.htm](https://www.neweurasia.info/archive/2000/top5/02_22_Nazp01.htm) (February 2000).

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## **JUSTICE IN KAZAKH SOCIETY**

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The institute of biys is an ancient, medieval mechanism that has determined the order in the Kazakh zhuzes for centuries. Even after the accession of the Kazakh zhuzes to the Russian Empire, which had its own multi-level judicial and legal system, the traditional institution of biys was preserved. The study of the significance of the legal institution of the Kazakh biys allows us to identify the mechanisms of governance and traditional problems that are characteristic of the imperial policy towards the national outskirts of Russia in the 19th century. The first information about the life of the Kazakh population in the Russian Empire was left by officials and the military, who were usually officers of the General Staff or representatives of the Imperial Russian Geographical Society. For this reason, in their works they compared the effectiveness of various forms of government on the outskirts of the empire and substantiated the progressiveness of the Russian administration and laws for the Kazakhs.

Only in the post-Soviet period, against the backdrop of increasing interest in national culture, did the traditional institution of biys become the subject of numerous studies. In particular, debatable in modern historiography are the problems of the emergence of the institution of biys, the continuity of the biy title and the powers of biys [1, 53]. Many studies are devoted to the institution of biys in the structure of the Russian Empire. At the same time, the imperial interests, effectiveness and results of Russian policy receive different interpretations.

The institution of biys as a type of power relations developed in the distant past of the traditional society of the Kazakh people, as a result of a long selection of various practices by the people, as a stable marker of the socio-cultural space of the Kazakh people, a regulator of the life of the society, able to flexibly adapt to the possible influences of external political and legal systems.

Biys were not homogeneous in political and social status, this was due to the fact that they performed a variety of functions in Kazakh society: along with the fact that some were leaders of clans (administrative and political function) and headed the people's militia (military), others resolved judicial issues (judicial) and took part in the development and adoption of oral codes of the Steppe (legislative), others often acted as ambassadors (diplomatic). In addition, the biys were the guardians of the spiritual heritage of the people (spiritual and aesthetic). Sometimes all functions were concentrated in one person at the same time. This factor significantly influenced the financial situation of the biys. It can be said that part of the biys, as a social institution, accumulated all powers of authority in their hands. Proceeding from this, the synonym of the term "biy" is used the concepts of "ancestral leader", "ancestor", "lawyer", "ambassador", "orator" [2, 9].

It is important to note that in the Kazakh society of the XV-XVIII centuries. The court of biys possessed the main judicial power. Any free community member with sufficient authority, knowledge of customary law and eloquence could legally perform the functions of a bey. In addition, the khan had the highest judicial power, who had the right to review the decisions of the biy court. Speakers - sheshens and biys, undoubtedly, occupy an important place in the history of the Kazakh people. The

most prominent of them are the three great biys: Tole bi, Aiteke bi, Kazybek bi. Quite rightly, A. Nurpeisov, a well-known Kazakh writer, said about them: "Three wise men, whose names do not leave the lips of the grateful descendants of Tole bi, Kazybek bi, Aiteke bi, were not only endowed by God with great oratory. They, just like Cicero in ancient Rome, used a wide range of state duties, including the court of biys, thus asserting the principles of democracy of the Great Steppe by their actions. It was the great oratory that, first of all, put them forward in the ranks of historically significant persons of the Kazakh ethnos.

In ordinary Kazakh law, a case could not be initiated on the fact of a crime, the process began only at the initiative of the victim. The biys were chosen by mutual agreement of the parties, and the biy could be challenged, but only before the start of the process. The consideration of the case began with the rite of throwing whips before the judge by the plaintiff and the defendant. This symbolized the agreement of both parties with the composition of the court and agreement with the future decision of the biy. An attempt to challenge, beat, after throwing lashes or obstruction of legal proceedings was punished, the guilty person could be beaten with his own lash. Before starting the process, the biy offered the parties reconciliation and, in case of refusal, began the hearing [3, 17]. Usually this happened with a large gathering of people, and not only interested people, but also everyone who wanted to. The essence of the case was stated orally by the plaintiff or his representative. During this time, the defendant could also state his version himself or through representatives. Their roles were most often eloquent and familiar with the norms of customary law from the same village. Biy could call witnesses, whose presence was ensured by the interested party.

Customary Kazakh law provided for a different approach to witnesses depending on their social status. The testimonies of women, the closest relatives of the plaintiff and the defendant, minors, persons subjected to corporal punishment, and also persons recognized as insane were not accepted. The testimonies of ordinary community members had probative value only after the honesty of the witnesses was confirmed by an oath. The testimonies of sultans, biys and other influential persons were accepted without an oath. The Code of Laws "Zheti Zhargy" determined that "at least two, and sometimes three witnesses are required to certify a crime." One of the most important institutions of the judicial process in the Kazakh customary law was the institution of the oath, which was popularly called "msan beru". They resorted to it if it was impossible to find out the truth in other ways. Interestingly, it was not the plaintiff and the defendant who took the oath, but their relatives at the choice of the opposite side [4, 17]. At the same time, preference was given to well-known and respected people, preferably those unfamiliar with the circumstances of the case. There were two types of oath - evidence and cleansing. An evidentiary oath was required from the plaintiff's witness. A cleansing oath was taken by the defendant's side. The oath-taker had to solemnly swear the innocence of the accused. Usually, at the slightest doubt, the oath-taker refused the oath, because if his mistake was later found out, he was liable as a perjurer, outlawed, his property and livestock could be plundered with impunity. Refusal of the oath of the cleansing oath automatically led to a guilty verdict. The biy's verdict was passed orally, after his announcement, a ceremony called "alajt" was performed - cutting a motley rope, which symbolized the completion of the trial. Biy received a reward called biylik - this is ten percent of the amount of the claim and all fines imposed on violators of procedural norms during the trial. Biys played a very important role in Kazakh legal proceedings.

The court of biys, as a court of high morality, was built and based on such fundamental principles that make up its unshakable foundations, such as the incorruptibility of a judge, justice as the essence and moral orientation of court decisions, the accessibility and publicity of the court, the judge's possession of oratory as a means of proving and substantiating a court decision, the focus of the court on reconciliation of the parties and full compensation for the damage caused by the offense. One of the striking features of the court of biys is in its spirituality: the spiritual content of the disputes under consideration always prevailed, the biys tried to adhere primarily to the moral principles that have developed in society [4, 37].

The authority of the biys rested on popular recognition, in essence, it was both a safe-conduct and a kind of "license" of the biy to administer justice. The biys were the main carriers of the norms of Kazakh law, they performed almost all the legal functions of the state: experts, interpreters and

guardians of existing laws, reformers and legislators, advisers to khans and sultans. The main principle of their activity was the principle of justice. The interests of the people were for them above some narrow local interests. The famous Aiteke-bi said: "My life belongs to the people, and only my death belongs to me." With such a powerful message, the court of biys had perfect, maximally simplified and efficient legal proceedings. Chokan Valikhanov cites an interesting fact that vividly characterizes the effectiveness of biy justice: Russian plaintiffs and defendants in many cases preferred biy courts to Russian investigators. [5, 7]. And there are hundreds of such cases. Of course, modern realities move us far away from the past, and it is impossible to mechanically transfer old traditions to today, although such proposals are sometimes heard, especially when it comes to arbitration, magistrates' courts or the institution of pre-trial reconciliation. But, undoubtedly, we can and should learn a lot from the rich heritage of the court of biys. The most important and valuable thing is that historical lessons are designed to help us revive moral principles in the education of worthy judges and in legal proceedings. Involvement in the orbit of judicial law enforcement of such tools as legal customs and principles, ethical categories presupposes the appropriate level of education and thinking of the judge, his high moral and civic responsibility.

The historical significance of the court of biys is that it was a kind of standard of justice. Glasnost as a necessary condition for the normal functioning of nomadic democracy, free public opinion that meets only the requirements of primordial traditions and customary legal norms, and finally, a firm assertion of the principle of justice, which is above all laws - these are the unconditional guarantees of the court of biys, which they unconditionally believed. Litigation began wherever people went looking for a solution to a dispute. And they came only to those whose opinion they trusted. It was the true color of the people, concentrating in itself the whole storehouse of folk wisdom and spirituality.

The judiciary in Kazakhstan, in contrast to the countries and individual Central Asian lands, in which agricultural or urban culture prevailed, and the norms of law associated with it, including the norms of Islamic law, were secular and mental, enjoyed great influence on general civil power, including the civil-dynastic power of sovereigns and rulers, often shared the supreme power with them. The "golden age" of justice and legality, which has become a reality and constituted a whole era and a period in the historical destinies of the Kazakh people and its statehood, embodies in many respects the natural state of society, in which judicial and legal relations in their development rose to the level of national value.

The value of Kazakh law went far beyond its own regulatory normative role in the ethno-cultural boundaries of Kazakhia. It carried and performed simultaneously several functions: regulatory, managerial, unifying, protective and humanistic. In a broad sense, it was law and power, a source of social existence and morality, art and spiritual value. These features, apparently, determine its vitality and amazing stability in the face of a purposeful and powerful onslaught - Muslim law, Mongolian law and other foreign systems of law, the same nomadic, semi-nomadic communities, sedentary and agricultural cultures and states, including Russian legislation. Their influence on Kazakh law did not develop into a destructive force. It often affected the tops of society, its individual social strata. The dominant regulatory position and the impulse for self-development of the Kazakh law "Zhargy" have been preserved until modern times. As Chokan Valikhanov pointed out in the middle of the 19th century, "Despite the 50th anniversary of Russian influence, the court of biys remained the same for hundreds, maybe a thousand years before us" [6, 164].

The enviable vitality of the Kazakh law does not lie in exclusivity as a kind of system-institutional institution in history. All peoples in one form or another at an early stage of their history went through such a period - the period of domination of customary legal, judicial precedent, and partly legislative regulation of social and administrative relations. Such a period for many peoples was unstable, short-lived, transitional and fit within the framework of the era of the medieval ideology of dividing society into higher and lower classes, dynastic struggle for power, for new booty, resettlement of nomadic and semi-nomadic communities, unions in search of new lands. Kazakh law is different in that it, while remaining basically customary legal norms and institutions, has developed and developed, as it were, in a zone of freedom and moral values, and because of this, it has absorbed

more peaceful, naturally stable principles of nomadic civilization. In this regard, we can say that in terms of content, it largely determined its era, in the depths of which it was formed, and outgrew its framework.

### Literature

1. Mazhitova Zh.S. Institute of biys: approaches and interpretations in Russian and Kazakh historiography. - Monograph. M.: "KDU", "University book", 2015. - 352 p.
2. Pakhman S.V. Customary civil law in Russia. - B.M., 1879.
3. Tynyshpaev M. History of the Kazakh people, Almaty, Rauan publishing house, 1993.- 224 p.
4. Abil Y. History of the state and law of Kazakhstan. - 2005., Karaganda. 3rd ed. - 258 p.
5. Daniyarova A.E., Ogoltsova E.G., Nurligenov Z.N. Materials on the history of Kazakhstan from ancient times to the beginning of the XX century. - 2009., Karaganda -120 p.
6. Valikhanov Ch. Court biys and ancient folk form. - Notes of the Russian Geographical Society. Department of ethnography. T. 29. St. Petersburg. 1904, p. 164.

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## ДИНАРАЛЫҚ СҰХБАТТЫҢ ҚОҒАМДЫҚ КЕЛІСІМГЕ ЫҚПАЛЫ

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Қазіргі таңда дінді және дінаралық қатынастарды ғылыми-зерттеу объектісіне айналдырған зерттеуші-ғалымдар көптеп саналады. Кейбір ғалымдар дінді қоғамға зиян келтіруші деп санаса, енді біреулері діннің адам өміріндегі рөлін қарастырып, оның әлемдегі әлеуметтік құбылыс ретінде санайды. Бұл мәселелерді зерттегенде біржақты болмауға тиіс. Өйткені, әрбір дінде өз ілімі, қасиетті кітаптары, тарихы, өзіндік дәстүрі, рәсімдері бар. Қазіргі жаһандану заманында оларды зерттеп-зерделеуге, жүйелеуге, салыстыруға мүмкіндіктер көп. Әсіресе, дін түрлі халықтардың тарихына, олардың мінез-құлықтарына және мемлекеттік тағдырларына ықпал еткенін зерттеу өте қызықты болып табылады. Дінді осы қырынан тану тарихшыларға, археологтарға, этнографтарға, саясаткерлерге, психологтарға, әлеуметтанушыларға т.б. ұнайды.

Қазақстан әлемдегі жедел даму үстіндегі елдердің бірі болып табылады. Осының кепілі - біздің еліміздегі негізгі конфессиялар руханилықты, ұжымдастықты, отансүйгіштікті қалыптастыруға және халықты Отанды қорғау ісіне жұмылдыруға әрқашанда ат салысып, мемлекетке қолдау көрсету ұстанымынан айныған емес. Еліміздегі дәстүрлі діндердің өкілдері татулық, әділеттілік, мейірім, бауырмалдық, қоғамға пайдалы істерді жасауға ұмтылыс, салауатты өмір сүру, отбасылық бақыт сияқты моральдік құндылықтарды баса айтып, дәріптеуде.

Гуманитарлық ғылымдар саласында қоғамдағы үдерістерді әр қилы қарастыру орын алған. Қандай да бір мемлекеттегі қоғамдық келісім немесе дінаралық сұхбат мәселесінде «конфликтология» [1] саласы айналысады. Ғалымдар қоғамдағы орын алатын қақтығыстардың ішінде дінаралық қақтығыс мәселесі қоғамдық келісімге бірден бір әсер етуші фактор ретінде қарастырады.

Бүгінгі таңда экстремизмді анархистер, анти-глобалистер, діни фундаменталистер, ұлтшылдар тарапынан сипатталады, олар қоғамға қарсы және тіпті қоғамға қауіпті мінез-құлықты көрсетуде. Экстремистік бағыттағы қылмыстар үлкен қоғамдық резонанс тудырады, бұл әлемдік қоғамдастықтың тиісті реакциясын тудырады [2].

Дінаралық және этносаралық татулықты дамыту қазіргі қазақстандық қоғам тұрақтылығының басты факторларының бірі болып қана қоймай, мемлекеттік ұлттық