



Мемлекет және құқық теориясы / Theory of State and law/  
Теория государства и права

IRSTI 10.09.01  
Scientific article

<https://doi.org/10.32523/2616-6844-2025-152-3-11-22>

**The Role of the Biy Court Institution in the Formation of the Legal Culture of the Kazakhs**

K.R. Balabiyev\*<sup>1</sup>, D.A. Tursynkulova<sup>2</sup>, A.K. Kurmanova<sup>3</sup>

<sup>1</sup>Central Asian Innovation University, Shymkent, Kazakhstan

<sup>2</sup>al-Farabi Kazakh national university, Almaty, Kazakhstan

<sup>3</sup>Aktobe Regional University after K. Zhubanov, Aktobe, Kazakhstan

(e-mail: <sup>1</sup>balabi.kairat@mail.ru, <sup>2</sup>adilek03@mail.ru, <sup>3</sup>k.aigul\_k@mail.ru)

**Abstract:** This paper explores the subject of the traditional institution of Kazakh customary law in the field of justice. The subjects of research are the nature and content of the biy court activities that have been designed to ensure fair and honest consideration and resolution of disputes in the Kazakh steppe. It is especially noted that the activity of the biy court is characterized by the determination of the priority of moral and ethical principles adhered to by the Kazakh society. The scope of activities of this institute determines the relevance of introducing its principles into the modern justice system. The heritage of the biy court is the most important source in the formation and development of the legal culture of the Kazakh society. The paper presents the circumstances of the influence of the biy court on the people of Kazakhstan, not only in matters of consideration and resolution of certain cases and disputes. This refers to the field of political reforms, management issues, on which the institution of biys had social influence based on the knowledge and erudition of the provisions of customary law, the ability to apply them in various situations, and oratorical skills. The paper notes the orientation of the biy court to the moral and ethical principles adhered to in the society. Activities, actions, and decisions taken must be carried out based on humanism, compliance with the committed act and responsibility for it, and punishment. Taking into account the mentality, socio-economic, and political development of the Kazakh society, the national cultural characteristics, as well as the historical experience in resolving various disputes, can be defined as a feature of the biy court that was lost by the modern judicial system.

**Keywords:** biy court, fairness, legal culture, judge, verbal skill, justice, reconciliation.

Received: 10.02.2025. Accepted: 24.09.2025. Available online: 30.09.2025

## Introduction

Modern realities in the global community, the effort of our government to ensure compliance of the national legislation with international standards, determine the special significance of universally recognized moral and human values. The issues of implementation of the fundamental principles of fairness of justice and its accessibility concern not only legal norms, but also the level of legal culture of Kazakhstanis. At this stage of historical development, the institution of the biy court in the creation of statehood and the legal culture of our society gains ground.

The concept of legal culture includes the complex of knowledge and values accumulated by people in relation to law and rights in particularly this refers to the degree of legal awareness of people in the provisions of national legislation and its practical implementation, the organization of law and order. The level of legal culture serves as a measure of the legal progressiveness of citizens.

In Kazakh society, the court of biys was the basis of the social, legal, and political life of Kazakh society. It was the main institution of procedural law in the Kazakh customary law system. Research in this area was carried out not only by Kazakhstani but also by Russian scientists, such as A. Levshin, G. Potanin, I. Kraft, and P. Rumyantsev [1].

## Methodology

The use of general scientific research methods in scientific work is justified due to the fact that the logical method that is based on the concept of correct thinking; special - legal, which allows to consider the object of research from the legal point of view, and formally - legal, which determines the creation of the object concept, together help to establish the content of this legal category. The article uses the historical method as the main method of scientific research, which allows for determining the features of the institution under research in the dynamics of its formation and improvement. Based on this, appropriate conclusions can be drawn with respect to the present times. In particular, the institution of the biy court over time was able to influence all spheres of the life of Kazakh society. Therefore, the modern system of justice, based on the historical experience of the mechanism of administration of justice, can become a perfect concept for the formation of the national legal culture. Appeal to the scientific works of Ch. Valikhanov, S. Zimanov, T. Kulteev, and M. Narikbaev provide an opportunity to explore the essence of the institution of customary law in the dynamics of opinions.

## Discussion

The implementation of judicial functions was far from the only function of the biys - they were engaged in the interpretation, dissemination, and storage of the provisions of the customary law of the Kazakhs. The fundamental principles in the activity of the court of biys were justice, publicity, and accessibility of the court, assistance in reconciliation of the parties, restoration of property rights, or compensation for damage. Thus, the court of biys was characterized by the establishment of moral and ethical principles adhered to by society.

The institution of judge disqualification does not apply to the biy court, since the essence of this institution does not correspond to the position of the biy. The biys were experts in the

provisions of customary law, individuals of high moral qualities, and they had well-developed oratorical skills. This title was non-appointed, non-elected non-hereditary. Individuals nominated as candidates for the biy position were individuals respected and honored by the people [2].

The elected individuals were very highly intelligent, wise, recognized by the people and authorities, the main requirements for them were openness, truthfulness, sociability, knowledge and ability to use various techniques of the Kazakh language in communication, literacy in relation to the traditions and customs of the Kazakh people, as well as in the characteristics of generic features and everyday life of the Kazakhs. The only oratory talent was not a guarantee for being elected to the biy position. Strict adherence to the principle of justice could turn an ordinary person into a biy.

This statement is confirmed by the opinion of Ch. Valikhanov, who identified the knowledge in the field of jurisprudence together with oratorical skills as the main requirements for biys. First of all, it was required to proceed with people's assessment of the abilities of Kazakhs who have been nominated for the biy position, in terms of knowledge of judicial customs, and oratory skills. And this assessment has been carried out regularly, having the title of biy did not mean a constant appeal to the nation. A fair resolution of the dispute could lead to the biy's fame, a kind of permission to practice as a judge and a lawyer. This title was dependent on the choice of the Kazakh society, which was approved by the ruling authorities; the disciplinary liability was not considered for them because they were respected by people [3].

The biy court institution was also influential in carrying out political reforms, where the initiatives could come from the biys. The close connection with the people expressed the support of the people's interests by the biys [4]. The biys ensured the interaction of the ruling authorities with the people; therefore, according to S. Zimanov, the function of the khan's power in peacetime consisted in governing the people and considering and resolving various disputes [5].

The Kazakhs, as nomads, were distinguished by their freedom-loving and strong temper. Khan's power was not absolute, so we can state some exercises of democracy in society. Where biys acted as bearers of the traditional spiritual national culture, as its defenders, which manifested the political and social characteristics of the institution under the research. These were people who expressed the independence of the Kazakh people in matters of regulating foreign policy security based on the mobilization of people, decisions, and ideas [6].

According to the scientific works of S. Zimanov, being an unwritten law, the customary law of the Kazakhs establishes the fundamental provisions of the substantive and procedural law of the relevant time. They are supported by basic normative guidelines, and the language of their expression is precise, concise, and expressive. These fundamental principles serve as the foundation for resolution and application in specific life situations [7]. Based on consideration and interpretation, the biy court could derive provisions related to certain factual circumstances of the situation that could be treated as the result of consideration and could be used in resolving disputes and other issues.

There are many such examples, when the fundamental principles acted as starting points for the formation of the regulatory provisions applicable to a particular situation, described by the practice of the biy court of that time. For example, a case described by various sources, in which B. Almenuly acted as a biy [8]. The resolution of the dispute has a certain regulation-forming character of the biy's functions, when the applicable provision is determined by the biy himself based on fundamental principles: justice, morality, humanity. In the process of considering

the dispute, the biy determined the need to introduce human values into the provisions of customary law, when, in the interest of the injured party, he determined the payment of kun by the defendant, whose negligence led to the death of a person [9].

The biy court was replenished with candidates from the people who had knowledge in the field of customary law, had oratorical skills and authority among the people. The mentality of the people manifested itself in the formation of dynasties of biys, although in fact the title of biy was not hereditary [10].

The very position of the Biy had not only judicial, law-forming, but also authoritative characteristics. The influence of the biys was confirmed by their coalescence into the Council of Biys and their management over the entire zhuzes and individual military-protest associations. Knowledge and erudition of customary law, as well as the ability to apply it for considering, interpreting, and resolving disputes and situations, were the main properties of the biy court, which allowed it to have great opportunities and rights in regulating various social relations [11]. Since the provisions of customary law were the main sources of law of that time, the biys had the knowledge and skills in establishing various methods and techniques not only in resolving the case, but also in executing their own decisions on it. This knowledge included a vast body of customary law. These provisions tended to change in accordance with changing social relations; in fact, they corresponded to their historical period.

The provisions established by the biy courts were regulations - principles, regulation-provisions, and were used as sources of customary law of the Kazakhs. These fundamental principles were built on the principles of justice, morality and ethics; they were precise and concise. Biy on the basis of his practical and social life, knowledge, and skills in real life, while considering the probabilities and possible consequences of applying the provisions of customary and case law of the Kazakhs, deduced the true interpretation of its provisions [12]. And the very concept of true interpretation is the main sign of the validity and obligatory implementation of the decision of the biy court. The fact that the regulatory provisions acted as an expression of the reality of Kazakh society was natural for that time [13].

The main and core components of the biy court, based on which it was recognized as a court of high morality, were the fairness of its decisions, determined by the content of the dispute itself; publicity of the biy court; cleanliness and professional abilities of the judge in substantiating and establishing the decision; the orientation of the judiciary to resolve the conflict and ensure compensation to the injured party, whose interests were violated, for the harm caused by the other party. Thus, spirituality and morality have always been determined as the main quality of the biy court; when considering a specific situation, the priority was given to the moral foundations determined by society was established [14].

The authority of the biy court was recognized by the Kazakh people, based on which this institution could perform the function of administering justice [15]. Therefore, the court of biys, in its essence, was national. This was confirmed by the presence of such a function as the implementation of the legal functions of the government. This refers to the introduction of legal reforms, legislative opportunities, knowledge of legal provisions and human rights function, interpretation of the provisions of customary law, as well as the implementation of the function of advisers to the ruling elite. While the priority of the principle of justice remained unchanged.

The introduction into society of such a concept as justice is the requirement for the correct implementation of law enforcement activities. According to S. Zimanov the justice and truth

are essential concepts in various legal relations between people and other persons [16]; these concepts become false and formal at the level of managerial and administrative legal relations.

The biy court officially recognizes the above institutions as the fundamental principles required to implement the administration of justice and the resolution of cases [17]. The principle of justice established as the basic legal provision and regulation becomes fundamental in the field of law enforcement, influencing the process of implementing the law in the mechanism of the overall customary law [18]. The following saying, “Ak pen karany shyndyk ayyrar”, which means, “only the truth can separate white and black”, could be used as an example of the above.

This shows the orientation of the biy court to the moral and ethical principles adhered to in society. Activities, actions and decisions taken must be carried out based on humanism, compliance with the committed act and responsibility for it, and punishment. No matter how the parties were hurt by the committed act, the main factor is the end of the conflict and bringing the current situation into a peaceful direction, “daudyn tubi bitu” (reconciliation is the end of the dispute) [19].

This was facilitated by the fact that the biys had oratorical skills that helped to convince of the truth of their words and ensure the validity of their decision. This ability was also essential in establishing and implementing the principle of adversarial system, when, having a weaker evidence base, the party is more convincing during the dispute, based on eloquence, the ability to apply facts and precedents, and to convince the trial of the truth of its positions. By the way, a similar property exists in the modern trial jury.

At present, the biy court is perceived not only as an institution for the administration of justice, but also as a mechanism that contributed to the improvement of the basic provisions of customary law. The norms and regulations adopted by the Kazakh people had a more perceptible character and were accepted as recommendations and instructions.

The principle of justice became the most significant principle in the biy court. And this was open and dispassionate. The institution under research is based on ethical principles, norms of politics and diplomacy, focusing on the moral components of the acts in question. It combines both the highest legislative functions based on exclusive authorities and judicial ones. At the same time, the biy court carried out the function of regulation of the foreign and domestic policy in Kazakh society; however, it cannot be considered as a universal institution of governance, just like it is impossible to predict issues and situations that affect the interests of people and are objects of the legal practice of the biy court.

The court did not have specific guidelines for the specialization of consideration and resolution of cases and disputes, which means that there was no clear distinction between the criminal process and civil, criminal, and civil law provisions. Therefore, the jurisdiction of the court of biys, which was open and accessible, included issues that arise in everyday life, in different formats, from various situations [20]. The biys established that the preservation of honor, conscience and dignity in any conditions is the main principle that serves as the foundation for the well-being of the Kazakh people.

Biys ensured publicity and openness of their trials, so anyone could be present at the resolution of a dispute or case.

The adversarial principle, which is also recognized by the civil procedural legislation of the Republic of Kazakhstan as a principle of justice, was applied to each case by each party for protection. The defense party had the opportunity to be involved by the parties their biy or biys,

who acted as representatives of the party [21]. It is interesting that such representation was necessarily supported by kinship, tribal relations and was not applied to non-kinship persons.

The institute of oath taking or “ant беру” was especially widespread, that is, the accusation or defense of a party was performed peculiarly [22], when the evidence base in the case was insufficiently complete and explicit [23]. If, in this case, there were suspicions of the guilt of the party, people of the same kind were involved in the case, who, under oath, could support the prosecution or the defense. The use of this institution was justified by the need for a fair resolution of the case under consideration, in accordance with the traditions established in society.

Such an action at the trial could not mean shifting responsibility for the resolution made by the court to another person due to the fact that more powerful and influential force was able to convict the biy himself of injustice and wrongness if he deviated from the provisions of customs during the case consideration. This is the opinion of the people, since each case or dispute had a public character that was based on the principle of justice [23].

Therefore, at the judicial resolution of a case or dispute, the court of biys was a process of applying knowledge in the field of customary law, skills in resolving a particular category of case and oratory, as well as protecting the provisions of established traditions, principles of justice and legality [24].

Thus, the court of biys received in itself all the power of feelings, legal consciousness, concepts, and attitudes of the Kazakh people in the regulation of social legal relations. Therefore, it is a progressive and democratic institution of its time, based on the mentality, socio-economic and political development of the Kazakh society, the cultural characteristics of the nation, as well as the historical experience in resolving various disputes. This is the peculiarity of the court of biys, which was lost by the modern judicial system, since it was closer to the people. According to Ch. Valikhanov, only a law that is understandable and clear to people, which is based on national values, will be perfect, in contrast to one imposed by the ruling masses.

## **Results**

The biy court institute acts as a timely and necessary mechanism for its time, and acts as a regulator of political, legal, spiritual, as well as socio-economic legal relations. In the historical development of the Kazakh state, with the beginning of joining the Russian Empire, the biy court began to perform a protective function, when legal elements were imposed on the people that were not relevant to the nature and content of the legal system that existed earlier. The court of biys acted as the most significant body of judicial power, to which the people applied for justice.

Considering the main characteristics of the biy court, it is difficult to use the historical experience of the Kazakh state on modern society, but historical traditions carry out the experience of the practical use of the legal regulation mechanism, the elements of which can be applied in modern Kazakhstan. In particular, this applies to the institutions of reconciliation, which have a pre-trial, judicial nature and are used in the process of executing the decision of the judiciary, as well as in relation to the magistrates and arbitration courts.

But the most valuable and important factor that we can learn from the historical heritage of the biy court institution is the introduction of fundamental moral principles that were used in its main functions into the activities of the modern judicial system. This also applies to the

formation of the judiciary, the moral character of the judge. In addition, the Kazakh people recognized the biy court as a body of reconciliation and unification of people [25].

Making the comparative analysis of the activities of biy court and the existing judicial system of the government, it is possible to define the unity in administration of the justice, but in addition to the consideration and resolution of disputes and cases, the biy court performed the functions of management and regulation over the system of court decisions execution. The court of biys served as an adviser for people in matters of ideological, moral nature, interaction and development of the Kazakh people [26].

The formation and development of legal culture is the result of the historical heritage of the biy court [27, 28]. This refers to the system of provisions of customary law, practical experience in resolving everyday social and political issues and disputes, and consideration of the managerial aspects of the development of the Kazakh people.

## **Conclusion**

Thus, the biy court acted as a link between the Kazakh society and its rulers, promoting reconciliation in various social aspects of life. The formation and development of the institution of mediation in Kazakhstan is becoming a historically prepared event, since the activities of the biy court were focused on reconciliation and restoration of violated rights. The reconciliation was the pro-active stand of the court in resolving a dispute or case.

The ongoing events in society, changes in the public consciousness require the introduction of new methods and techniques in various areas of the state. The historical experience determines the fundamental principles that are relevant at the present time, such as the rule of law, the establishment of the judiciary as a guarantor of social equality and well-being in society, the expression of an active citizenship and etc.

It is the judiciary that determines and contributes to the formation of public opinion regarding the position of state power in the country, and its devotion to the interests of the population. The judge is in constant interaction with society, with people; therefore, his honesty, professionalism, moral and ethical attitudes affect the attitude of people to the authorities. The strengthening of the prestige of the institution of a judge, corresponding to the provisions that were set long before Kazakhstan gained its independence in 1991 and which come from the historically established principles of the activity of the biy court, is now gaining ground.

**The contribution of the authors in writing this article is equivalent.** All authors participated in the discussion of the final version of the manuscript and approved it for publication. **K.R. Balabiyev** conducted the conceptual development of the study, supervised the research design, and performed the analysis of key findings. **D.A. Tursynkulova** carried out the literature review, participated in data interpretation, and contributed to the formulation of the theoretical framework. **A.K. Kurmanova** was responsible for revising the text critically for important intellectual content, ensuring the accuracy and integrity of all parts of the manuscript.

The article was prepared within the framework of the project: IRN AP19678348 "The collapse of the Russian Empire and the revival of the Kazakh statehood: historical and legal analysis".

Financing from the state budget.

## References

1. Курганбекова Г.Т. Роль института биев в проведении правовой реформы в Казахстане // Вестник Актыбинского университета им. С. Байшева. – 2014.
2. Гиздатов Г. Очерки по истории судебной речи. – Алматы: Жеті жарғы, 1998. – С. 78.
3. Валиханов Ч. Избранные произведения. – Алматы, 1958. – 360 с.
4. Ахажанова А.Е. Эволюция судебной системы Казахстана от бийских судов до судов с участием присяжных заседателей. – Астана, 2006. – С. 80.
5. Зиманов С.З. Проблемы обычного права казахов. – Алма-Ата: Наука КазССР, 1989. – 206 с.
6. Култеев М.Т. Уголовное обычное право казахов. – Караганды: Болашак-Баспа, 2004. – 430 с.
7. Зиманов С.З. Состояние и задачи разработки проблем обычного права. Проблемы казахского обычного права. – Алма-Ата, 1989.
8. Алимжан К. Суд биев в истории казахского народа // Мысль. – 1999. – № 6. – С. 70–82.
9. Нарикбаев М. От наших великих биев до Верховного суда. – Алматы: Атамұра, 2000. – 192 с.
10. Андре Л.И. О степном законе: Материалы по обычному праву казахов. – Алматы, 1998. – Сб. 1. – С. 164.
11. Вареникова С.П. Казахское обычное право и судопроизводство биев – URL: <https://lexrussia.msal.ru/jour/article/viewFile/150/1> (дата обращения: 20.12.2025).
12. Айтхожин К. Суд биев в истории казахского народа// <http://mysl.kazgazeta.kz>
13. Баранов В.М. Истинность норм советского права. – Москва, 1989.
14. Мами К.А. Суд биев – аккумулятор для национального кода // Казахстанская правда. – 2017. – С. 1–15.
15. Даукетов Ж. Исследования по обычному праву казахов и институту степных судей – биев – URL: <http://repository.kazguu.kz/bitstream/handle/123456789> (дата обращения: 21.12.2025).
16. Зиманов С.З. Казахский суд биев – уникальная судебная система. – Алматы, 2008. – С. 68.
17. Федотова И. Суд биев как демократический институт отправления правосудия в казахском традиционном обществе. – URL: <https://cyberleninka.ru/article/n/sud-biev-kak-demokraticeskij-institut-otpravleniya-pravosudiya-v-kazakhskom-traditsionnom-obschestve> (дата обращения: 03.01.2025).
18. Бакирова А.М. Роль института биев как органа по урегулированию и разрешению конфликтов правового характера // Ученые записки Крымского федерального университета имени В.И. Вернадского. Юридические науки. – 2019. – Т. 5(71). – № 4. – С. 409–426.
19. Абдрасулов Е.Б. Роль суда биев в совершенствовании норм обычного права. – URL: <https://www.sud.gov.kz/rus/content/rol-suda-biev-v-sovershenstvovanii-norm-obychnogo-prava> (дата обращения: 12.12.2025).
20. Валиханов Ч. Записка о судебной реформе. – Алматы, 1987.
21. Мами К. Суд биев. – URL: <http://sud.kz/rus/content/sud-biev> (дата обращения: 23.12.2025).
22. Alimbekova M.A., Ibrayeva A.S., Baikenzheev A.S. The development of legal culture as one of the key directions in the formation of the rule of law and civil society. // BULLETIN of L.N. Gumilyov Eurasian National University Law Series. Vol. 147 №2(2024). <https://doi.org/10.32523/2616-6844-2024-147-2-198-210>
23. Култеев Т.М. Понятие казахского обычного права // В кн.: Древний мир права казахов. – Алматы, 2003. – Т. 2. – С. 237.
24. Суд биев – мировая ценность. – URL: <https://ikaz.kz/sud-biev-mirovaya-cennost/>
25. Досжан Ә. Суд биев – уникальный институт правосудия. – URL: <https://zanmedia.kz/71257/sud-biev-unikalnyj-institut-pravosudiya/> (дата обращения: 23.12.2025).
26. Шнирельман В.А. История первобытного общества. – Москва, 2001.
27. Abdrasulov E.B., Saktaganova A.B. Topical issues on the formation of professional legal consciousness of a judge. // BULLETIN of L.N. Gumilyov Eurasian National University Law Series. Vol. 145 №4(2023) <https://bullaw.enu.kz/index.php/main/article/view/301/116>



28. Ибраева А.С. Правовая культура: проблемы теории и практики. – Алматы: AnMaib, 2002. – 352 с.

**Қ.Р. Балабиев<sup>1</sup>, Д.А. Турсынкулова<sup>2</sup>, А.К. Курманова<sup>3</sup>**

<sup>1</sup>*Орталық Азия Инновациялық университеті, Шымкент, Қазақстан*

<sup>2</sup>*әл-Фараби атындағы Қазақ ұлттық университеті, Алматы, Қазақстан*

<sup>3</sup>*Қ. Жұбанов атындағы Ақтөбе өңірлік университеті, Ақтөбе, Қазақстан*  
(e-mail: <sup>1</sup>balabi.kairat@mail.ru, <sup>2</sup>adilek03@mail.ru, <sup>3</sup>k.aigul\_k@mail.ru)

### **Қазақтардың құқықтық мәдениетін қалыптастырудағы билер соты институтының рөлі**

**Аңдатпа:** Мақалада қазақтардың сот төрелігі саласындағы дәстүрлі құқық институтының іс-әрекеті қарастырылады. Қазақ даласында дауларды барынша ешкімге бұра тартпай адал қарап, оң шешуді қамтамасыз етуге арналған дәстүрлі билер сотының сипаты мен мазмұны зерттеледі. Билер сотына қазақ қоғамының моральдық және парасаттылық қағидаттарының басымдығы тән екендігі аталады. Сонымен бірге, қазіргі сот төрелігі жүйесіне билер соты институтының қағидаттарын енгізудің өзектілігін айқындайды. Билер сотының мұрасы қазақстандық қоғамның құқықтық мәдениетін қалыптастырудағы және дамытудағы аса маңызды дереккөздер болып табылады. Мақалада Қазақстан халқына ықпал етуі мүмкін билер сотының дауларды қарау және шешу мән-жайларымен қатар, билер сотының түрлі жағдайларда қазақтың дәстүрлі әдет құқығы ережелерін жете білуіне, шешендік өнер мен аталы сөзді жақсы меңгеруіне негізделген саяси салада реформаларды жүзеге асыру және басқару мәселелері де қарастырылады. Мақалада билер сотының қоғам ұстанатын парасаттылық және моральдық принциптерге бағыттылығы анықталады. Іс-әрекетке сәйкес қолданылатын жаза мен қабылданатын шешімдер гуманистік тұрғыда жүзеге асырылуы қажет. Еліміздің қазіргі сот жүйесінің қазақ қоғамының ділін, әлеуметтік-экономикалық және саяси дамуын, ұлттық мәдени ерекшеліктерін, дауларды шешудің тарихи тәжірибесімен айрықшаланатын билер сотының ерекшеліктерін жоғалтқанын айтуға болады.

**Түйін сөздер:** билер соты, сот төрелігі, құқықтық мәдениет, судья, сөйлеу дағдылары, сот төрелігі, татуласу.

**Қ.Р. Балабиев<sup>1</sup>, Д.А. Турсынкулова<sup>2</sup>, А.К. Курманова<sup>3</sup>**

<sup>1</sup>*Центрально-Азиатский инновационный университет, Шымкент, Казахстан*

<sup>2</sup>*Казахский национальный университет имени аль-Фараби, Алматы, Казахстан*

<sup>3</sup>*Актюбинский региональный университет имени К. Жубанова, Актөбе, Казахстан*  
(e-mail: <sup>1</sup>balabi.kairat@mail.ru, <sup>2</sup>adilek03@mail.ru, <sup>3</sup>k.aigul\_k@mail.ru)

### **Роль института суда биев в формировании правовой культуры казахов**

**Аннотация:** В работе исследуются вопросы деятельности традиционного института обычного права казахов в области правосудия. Исследуется характер и содержание деятельности суда биев, который был призван обеспечивать справедливое и честное рассмотрение и разрешение споров в казахской степи. Особо отмечается, что для деятельности суда биев характерно

определение приоритета моральных и нравственных принципов, придерживаемых казахским обществом. Содержание деятельности рассматриваемого института определяет актуальность внедрения ее принципов в современную деятельность системы правосудия. Наследие суда биев является важнейшим источником в формировании и развитии правовой культуры казахского общества. В работе приводятся обстоятельства влияния деятельности суда биев на народ Казахстана не только в вопросах рассмотрения и разрешения определенных дел и споров. Это относится к области проведения политических реформ, управленческих вопросов, по которым институт биев имел народное влияние, основанное на познаниях и эрудиции положений обычного права, умении применять их в различных ситуациях, ораторских навыках. В работе отмечается ориентация суда биев на нравственные и моральные принципы, придерживаемые в обществе. Деятельность, действия и принимаемые решения должны быть осуществлены на началах гуманизма, соответствии совершенного деяния и ответственности за него, наказания. Учет менталитета, социально – экономического и политического развития казахского общества, культурных особенностей нации, а также исторического опыта разрешения различных споров можно определить, как особенность суда биев, которая утеряна современной судебной системой.

**Ключевые слова:** суд биев, справедливость, правовая культура, судья, словесное мастерство, правосудие, примирение.

## References

1. Kurganbekova G.T. Rol' instituta biev v provedenii pravovoj reformy v Kazakhstane // Vestnik Aktyubinskogo universiteta im. S. Baisheva. - 2014.
2. Gizdatov G. Ocherki po istorii sudebnoj rechi. -Almaty:Zheti zhargy.-1998.– S. 78
3. Valixanov Ch. Izbrannye proizvedeniya. – Almaty, 1958. – 360 s.
4. Axazhanova A.E. E'voluciya sudebnoj sistemy Kazakhstana ot bijskix sudov do sudov s uchastiem prisyzhnyx zasedatelej. – Astana. - 2006. – S. 80.
5. Zimanov S.Z. Problemy obychnogo prava kazakhov. – Alma-Ata: nauka KazSSR. – 1989. – 206 s.
6. Kul'teev M.T. Ugolovnoe obychnoe pravo kazakhov. – Karagandy: Bolashak-Baspa. – 2004. – 430 s.
7. Zimanov S.Z. Sostoyanie i zadachi razrabotki problem obychnogo prava. Problemy kazakhskogo obychnogo prava. - Alma – Ata. - 1989.
8. Alimzhan K. Sud biev v istorii kazakhskogo naroda//Mysl'.-1999.-№ 6.-S.70 – 82.
9. Narikbaev M. Ot nashikh velikih biev do Verhovnogo suda. - Almaty: Atamyr. - 2000. – 192 s.
10. Andre L.I. O stepnom zakone: Materialy po obychnomu pravu kazakhov. - Almaty. - 1998. - Sb. 1. - S. 164.
11. Varenikova S.P. Kazakhskoe obychnoe pravo i sudoproizvodstvo biev [E'lektronnyj resurs]. – URL: <https://lexrussica.msal.ru/jour/article/viewFile/150/1> (data obrashheniya 20.12.2025)
12. Ajtxozhin K. Sud biev v istorii kazakhskogo naroda // <http://mysl.kazgazeta.kz>
13. Baranov V.M. Istinnost' norm sovetskogo prava. Moskva. - 1989.
14. Mami K.A. Sud biev – akkumulyator dlya nacional'nogo koda // Kazakhstanskaya pravda. – 2017. – S. 1 - 15.
15. Dauketov Zh. Issledovaniya po obychnomu pravu kazakhov i institutu stepnykh sudej – biev. – URL: <http://repository.kazguu.kz/bitstream/handle/123456789> (data obrashheniya 21.12.2021)
16. Zimanov S.Z. Kazakhskij sud biev – unikal'naya sudebnaya sistema. – Almaty. - 2008. - S. 68.

17. Fedotova I. Sud biev kak demokraticeskij institut otpravleniya pravosudiya v kazakhskom tradicionnom obshhestve. – URL: <https://cyberleninka.ru/article/n/sud-biev-kak-demokraticeskij-institut-otpravleniya-pravosudiya-v-kazakhskom-traditsionnom-obshchestve> (data obrashheniya 03.01.2022)
18. Bakirova A.M. Rol' instituta biev kak organa po uregulirovaniyu i rresheniyu konfliktov pravovogo xaraktera // Uchenye zapiski Krymskogo federal'nogo universiteta imeni V.I. Vernadskogo. Yuridicheskie nauki. – 2019. – T.5(71). – № 4. – S. 409 – 426.
19. Abdrasulov E.B. Rol' suda biev v sovershenstvovanii norm obychnogo prava. – URL: <https://www.sud.gov.kz/rus/content/rol-suda-biev-v-sovershenstvovanii-norm-obychnogo-prava> (data obrashheniya: 12.12.2025)
20. Valixanov Ch. Zapiska o sudebnoj reforme. - Almaty. - 1987.
21. Mami K. Sud biev – URL: <http://sud.kz/rus/content/sud-biev> (data obrashheniya 23.12.2025)
22. Alimbekova M.A., Ibrayeva A.S., Baikenzheev A.S. The development of legal culture as one of the key directions in the formation of the rule of law and civil society. // BULLETIN of L.N. Gumilyov Eurasian National University Law Series. Vol. 147 №2(2024). <https://doi.org/10.32523/2616-6844-2024-147-2-198-210>
23. Kul'telev T.M. Ponyatie kazakhskogo obychnogo prava. V knige: Drevnij mir prava kazaxov. - Almaty, 2003. - T.2. - S. 237.
24. Sud biev – mirovaya cennost' // <https://ikaz.kz/sud-biev-mirovaya-cennost/>
25. Doszhan Ə. Sud biev – unikal'nyj institut pravosudiya. – URL: <https://zanmedia.kz/71257/sud-biev-unikalnyj-institut-pravosudiya/> (data obrashheniya 23.12.2025)
26. Shnirel'man V.A. Istoriya pervobytnogo obshhestva. – Moskva. – 2001.
27. Abdrasulov E.B., Saktaganova A.B. Topical issues on the formation of professional legal consciousness of a judge. // BULLETIN of L.N. Gumilyov Eurasian National University Law Series. Vol. 145 №4(2023) <https://bullaw.enu.kz/index.php/main/article/view/301/116>
28. Ibraeva A.S. Pravovaya kul'tura: problemy teorii i prakiki / AnMaib, 2002. – 352 s.

#### **Information about the authors:**

**Balabiyev K.** – Doctor of Law, Professor, Department of Law, Central Asian Innovation University, Baitursynova str. 80, 160121, Shymkent, Kazakhstan

**Tursynkulova D.** – Candidate of Law Sciences, senior Lecturer, Department of Theory and History of State and Law, constitutional and administrative law, al-Farabi Kazakh National University, Al-Farabi avenue 71, 050040, Almaty, Kazakhstan

**Kurmanova A.** – Candidate of Law Sciences, Associate Professor, Department of Mobilization Training of the State, National Defense University of the Republic of Kazakhstan, Turan avenue 72, 010000, Astana, Kazakhstan.

**Балабиев Қ.Р.** – заң ғылымдарының докторы, профессор, «Құқық» кафедрасы, Орталық Азия инновациялық университеті, Байтұрсынов к-сі 80, 160121, Шымкент, Қазақстан.

**Турсынкулова Д.А.** – заң ғылымдарының кандидаты, аға оқытушы, мемлекет және құқық теориясы мен тарихы, конституциялық және әкімшілік құқық кафедрасы, әл-Фараби атындағы Қазақ ұлттық университеті, Әл-Фараби даңғылы 71, 050040, Алматы, Қазақстан.

**Курманова А.К.** – заң ғылымдарының кандидаты, доцент, мемлекеттің жұмылдыру дайындығы кафедрасы, Қазақстан Республикасының Ұлттық қорғаныс университеті, Тұран даңғылы 72, 010000, Астана, Қазақстан.

**Балабиев К.Р.** – доктор юридических наук, профессор, кафедра «Право», Центрально-Азиатский инновационный университет, ул. Байтурсынова 80, 160121, Шымкент, Казахстан

**Турсынкулова Д.А.** – кандидат юридических наук, старший преподаватель, кафедра теории и истории государства и права, конституционного и административного права, юридический факультет, Казахский национальный университет имени аль-Фараби, пр. Аль-Фараби 71, 050040, Алматы, Казахстан

**Курманова А.К.** – кандидат юридических наук, доцент, кафедра мобилизационной подготовки государства, Национальный университет обороны Республики Казахстан, пр. Туран 72, 010000, Астана, Казахстан



Copyright: © 2025 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY NC) license (<https://creativecommons.org/licenses/by-nc/4.0/>).