



Narrative of Dispute in Kazakh Folklore: Litigation as a Cultural Concept in Oral and Epic Traditions

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Abstract

This study examines the cultural and pragmatic logic of litigation in Kazakh folklore. It is inseparable from oral performance, ethical authority, and collective memory. The present study demonstrates how litigation reveals that justice was not merely administered but performed through storytelling, speech performance, rhetorical wisdom, and communal praxis. The study reviews examples across genres and shows that Kazakh folklore presents litigation as a narrative mechanism that serves as a signpost for a communicative strategy, a discursive performance, and a linguistic phenomenon. *Litigation* as a cultural concept is embedded in traditional genres through the activities of the *Biy* institution. The decline of the *Biy* institution marked the end of an era, but its narrative echoes still resonate in the folk stories, myths, and moral imagination of Kazakh culture.

Keywords: Litigation, Kazakh, *Biy* Institute, oral tradition, folktale

Introduction

Litigation has been linguistically and culturally embedded in folklore and grounded in oral narratives. In Kazakh traditional society, litigation is not merely an official procedure but a cultural communicative act employed in communal rituals and rhetorical performance, grounded in oral tradition as a means of dispute resolution. It blends narrative with idiomatic, proverbial, allegorical, and epic elements, resolving and mediating conflicts through witty language and moral discourse. By examining the narratives of litigation, comprising conflict, dispute, and resolution, the paper demonstrates how storytelling served as a tool of justice for Kazakh orality, honor, and communal ethics. This study examines how the concept of litigation operates in Kazakh folklore, from myth to epic, with special emphasis on its linguistic and cultural dimensions. *Biy* institution, a uniquely Kazakh custom of justice, plays a significant role in this tradition, conferring authority on oral wisdom and eloquence.

The *Biy*s mediate a dialogic approach to justice, unlike codified law, depicting litigation as an embodied Kazakh perception. They were uniquely oral figures and ethical agents. They combine judicial, rhetorical, and moral authority. As a judge, orator, and community leader, the *Biy* played a central role in narrative orchestration, dispute mediation, and conflict resolution. Cultural norms known as *âdât* live on *Biy* verdicts, shaped by oral tradition, extended by collective memory, and spirited by wise eloquence (*tapqyrlyq*). *Biy* rulings were not only official decisions, but also ‘communicative acts’, mainly seeking reconciliation and peace rather than penalty. Hence, the *Biy* court essentially considers communal harmony and wisdom, blending moral discourse with normative practice. It became a sign of justice in Kazakh oral literature and folk memory. By the 19th century, however, modern reforms undermined and replaced the *Biy* institution, leading to the decline of this cultural model.

The cultural unit “*litigation*” is a conceptual framework that blends folklore, customs, and narrative traditions in Kazakh. The public activity of the *Biy*¹ Institute, which dates back to the Turks’ ancient past, is referred to as “*litigation*” in the cultural sense. The study of the Institute of *Biy*’s national activities, which is connected with the spiritual rejuvenation ideology (Makovetskiy, 1882, p. 82). Simultaneously, it is critical to research the *Biy* Institute’s communication strategies and techniques for conflict resolution, including legal, ambassadorial, and arbitration approaches.

Controversial matters were settled by the *Biy* Institute during the Russian Empire’s colonial policy, and the Tsarist administration made several attempts to undermine this tradition. All Kazakh court cases were divided into three divisions under the “*Charter of Siberian Kirghiz*” of 1822: criminal, litigation, and complaints against the Office. The decisive court had the authority to consider everything except criminal cases, including high treason, murder, robbery, *barymta*² (hostage), and apparent defiance of the authorities, according to the new regulation³ (Polnoye Sobraniye Zakonov Rossiyskoy Imperii No. 29127). All claims above 50 rubles were tried based on state regulations under the “*Regulations on the management of the Orenburg Kazakhs*” of 1844, and local courts were thus withdrawn from practice (Complete Collection of Laws of the Russian Empire No. 17998). The list of criminal cases was significantly expanded by the “*Approved provision of the Siberian Committee on the extension of the general laws of the Russian Empire to the Kazakhs of the Siberian Department*” in 1854, and those who did not want to sue *Biy* had

the right to apply to the imperial court (Complete Collection of Laws of the Russian Empire No. 28264).

The tsarist government implemented a series of changes to subordinate the judicial system, one of which was the judicial position of 1864, whose ideas served as the foundation for all later legal actions by the Russian administration in the Steppe region. The regulations of 1867-1868, 1886, and 1891 were manifestations of the empire's strategic strategy to reform nomadic society, to continue imposing imperial legal norms, and to Russify the local populace (1999, p. 74). In 1867 and 1868, the “*Temporary regulation on management in the Semirechensk and Syrdarya areas*” and “*Temporary regulation on management in the Ural, Turgai, Akmol, and Semipalatinsk regions*” legalized the notion of Biy's election. The imperial court, military court, and people's court were established, which resulted in the majority of cases being removed from the jurisdiction of the biys court (CSA RU Fund I-717, Inventory 1, File 6 A, Sheet 8). After the Steppe Territory and the Turkestan Regions' entire legal system was subordinated to tsarist Russia, and “litigation” on national issues was settled by the local tsarist administration.

Based on folklore sources and field research, this scientific study aims to investigate and determine the cognitive-semantic structure and communicative-pragmatic aspects of the word “litigation” in the Kazakh language, as well as the semantics of the linguocultural units it generates. In traditional Kazakh society, no argument ever escalated to the point of being an unsettled issue (Aimukhambet et al., 2023; Aubakirova et al., 2024; Tolen et al., 2023). As a result, any disagreement was not considered a dispute. As a result, the conflict has become a phenomenon connected with serious tribal problems in Kazakh society, rather than a concept related to the specifics of life⁴ (Materials on Kazakh Customary Law, 1948, p. 23).

This study will examine communicative strategies to produce eloquence as a means of dispute resolution in traditional culture. The study will also examine the representation of the Biy Institute in the Kazakh oral and written literature, ranging from Kazakh fairy tales and myths to modern fragments. Myths in Kazakh tradition often represent conflicts through binaries, such as black and white or sacred and profane, presenting litigation as a cosmological sign of moral split. The main topic of contention was “*black-white segregation*”. The “*spotted*” color is characterized by a blend of white and black hues. Cutting the thread to settle a dispute was a long-standing custom. It's a peace symbol. The Kazakhs are a people who “*did not cross the border*” and regard it as “*holy*” (Makovetskiy, 1886, p. 16). This tradition is the result of a mythical awareness that began with a nomadic background (SHA OR, Fund 3, Inventory 2, File 3148, Sheet 341-342).

In Kazakh fairy tales, conflict is often resolved not through violence, but through verbal skill, riddles, and clever argumentation—a precursor to the rhetorical role of the Biy. The narrativized conflict in fairy tales, where eloquence replaces force, exemplifies the Kazakh oral literature that originates from myths. The concept of “litigation” is reflected in myths in the mythological plot, that is, in the description of the situation of opposition caused by the relationship between mythical characters. The mythological plot, that is, the presentation of the conditions of conflict arising from the relationship between mythical characters, reflects the concept of “*litigation*” in myths (Levshin, 1832, pp. 170-186). There is a law that divides the world into pairs of opposites that can be found in any mythology. Up and down, right and left, earth and blue, white and black, and other binary pairings that make up the opposites of this world and the other world form a hierarchical sequence. A binary pair of white and black makes up the structure of the substance of the concept of

“*litigation*”. When two parties disagree and consider how to resolve the issue, a dispute arises (Ballyuzak, 1871, p. 71). The disagreement was settled peacefully or violently.

While rhetorical strategies prevail over the fictional settings, Kazakh epics transpose these disputes into representations of broader sociopolitical and moral struggles. Almost all Kazakh fairy tales are based on ordinary people’s dreams. Art, labor, ingenuity, valor, and intelligence are all things he admires. Not only is the idea of pursuing magical objects, such as a flying carpet, born of people’s imagination, but intelligence and ingenuity are also entwined as the most significant human and spiritual virtues in fairy tales. In plots depicting the minds and creativity of ordinary people or a princess, conversational information is conveyed, reflecting the meaningful structure of the notion of “*litigation*” in fairy tales. Judges are the subjects of conflict resolution in oratory, and representatives of the common people (bad, disobedient, youngest son, orphan) who answer the riddle, the king’s or princess’s conditions in fairy tales (Auezov, 1949, pp. 58-100). These objects are portrayed as symbols of logic and knowledge. Discord with a princess or a gorgeous girl is the most typical type of conflict. This point may be illustrated by quotations from fairy tales. Linguistic information reflecting the conceptual structure of “*litigation*” in fairy tales appears in stories that depict the intelligence and ingenuity of ordinary people or of the princess.

Fairy tale “*Khan’s daughter and Tazsha*”⁵:

Khan’s daughter, around 30, selects a husband. Gentlemen who are ready to marry approach him. But the girl had only one condition: “I will marry him if he speaks and raises my head out of bed three times”. No one can meet the girl’s requirements. Then a young man arrived at the Khan’s palace and struck up a conversation with the girl. He doesn’t get a response from the girl. When Tazsha notices the quiet, she strikes up a discussion. “A wood artisan, a jeweler, and a mullah are three buddies”, says the first story. “The master carved a lady out of wood, the jeweler clothed her exquisitely, and the mullah gave her life”. The three of them then began to quarrel about this lovely lady, saying, “I will take, I will take”, and each of them began to demonstrate their abilities. “Which of the three should get married to a lady?” Tazsha inquires. The girl sat down without responding to the inquiry. He then stood up and said:

While you may find this question tough to answer, we find it simple. “The girl should marry a wood master”, he said. She lifted her head from the bed and exclaimed, “Oh, stupid, don’t you know that a female should be married off to a mullah?” “Don’t forget, Princess”, Tazsha added triumphantly, “you once lifted your head out of bed”.

Tazsha relates the second story about three skilled men: a seer, a sniper, and a catcher. “Which of these three girls should marry her huge bird’s rescuer?” When the Khan’s daughter did not respond, he announced his choice: “A sharpshooter should marry her”. “She deserves a catcher”, she added after a second lookup. In the third narrative, Tazsha discusses two robbers, asking, “Which of these two is smarter?” Khan’s daughter also did not respond. “Although answering this question is difficult for you, it is simple for us”. “The day thief, in our perspective, is smarter”, he continued. “The night thief is smarter because he did heroism”, the girl added, raising her head. As a result, Tazsha’s cunning defeats the Khan’s daughter and marries her.

The condition of the khan’s daughter in choosing a husband was set not for the expression of heroism, but for the glorification of wisdom and intelligence, as can be

observed from the story. There was no hero who met the girl's requirements. Only the youngest son of the family, such as the heroes "Zhaman", "Tazsha", "Aldar Kose", "Kozhanasyr", and "Zhirenshe", meets the criteria set by the heroine in Kazakh fairy tales. Tazsha, the protagonist of this story, resolves a contentious matter and renders a fair judgment (Zhubanov, 1996, pp. 5-7). Even though the Khan's daughter listened to Tazsha's account, she did not dare to express her disapproval of Tazsha's decision. Along with creativity, this fairy tale slot represents people's quest for fairness. We believe that the desire to find a fair solution to conflicts and disagreements evolved into the oratory, which aided in the establishment of the Biy Institute in the Kazakh steppes.

The story of the three masters is told in a Kazakh fairy tale about three gifted young men. The first was a sage, the second a sniper, and the last a pilot. They are surrounded by a throng fatigued from their experiences when they arrive in the country to demonstrate their artistic strength. When they inquired about people's experiences, they were told that a giant black bird carried a resident's daughter high into the sky. The three catchers went to work as soon as they heard this. The sage tells the sniper where the enormous black bird is flying. The sniper shoots from a bow in the direction of the seer, hitting the bird directly without touching the girl, and the girl falls from the sky. The pilot then soars off into the sky, holding the girl in his arms, and lands slowly. They convey the girl safely to the village. Surprisingly, the audience applauds and considers which of the three should receive the primary reward. "I indicated to the arrow where he was flying and how to beat the girl off the enormous bird", the seer continues, "thus I must grab the primary prize". "The statements of the seer are not proof", the sharpshooter replies as he stands up. What good would the seer's advice be if I hadn't shot the enormous bird and saved the girl? As a result, the top reward is earmarked for me. "My art is better than a sniper or a seer", says the third. "I took to the air and caught a female who was falling from the sky. She would have fallen to the rocks and turned to ash if I hadn't caught her. What difference would it make if she fell or was abducted by her colossal bird? In any case, the girl would have perished. "I became the catalyst for the girl's moral and ethical integrity, " says the third. "In this case, the biggest award should go to me," he says. The audience was taken aback by three and didn't know who to award the big prize to.

The three heroes' quarrel remains unresolved in the fairy tale, as the plot shows (Kaskabasov, 2014, pp. 19-21). As a result, in Kazakh fairy tales, the operations of the institute of judges, that is, the idea of reconciliation and dispute resolution, are not particularly visible. The ability to recognize and analyze the power of communication is suggested. An open structure reflects the concept of intelligence and innovation. As a result, the origin of oratory was closely tied to the work's ability to resolve disagreements, the tradition of reconciliation, and the wisdom of judges.

Kazakh literature emerged as a distinct branch of creative activity in the twentieth century, primarily during the Soviet era, when communist ideology ruled. Soviet-era literature reflected prevailing class ideologies, including depictions of Biy justice. It is well known that the literary works of this period were designed to demonstrate the eternal opposition between one social group and another, namely, the oppressed poor and the rich (Zimanov 2008: 205). The social function and personality of Biy, on the other hand, held a prominent place in historians' writings. When it was required to demonstrate the greatest moral qualities, such as morality and justice, human dignity, and intellect, Kazakhstani writers exploited the image of fair judges and the form of the trial (Zimanov, 2008, p. 207).

Mukhtar Auezov's novel "*Abai's Way*", for example, was published under ideological restraints during the Soviet era and portrays various lawsuits that have survived in the traditional form of steppe democracy. Abai has a lot of power in the tale. Mukhtar Auezov's decision to take Abai early in the story is directly tied to the power situation. "*There were numerous Biys while Abai was growing up*", writes Salyk Zimanov, "*but fair Biys could be counted on the fingers in the literal sense*" (Zimanov, 2008, p. 211). The aul was allotted to one Biy. And he went ahead and did what he wanted. In the Kazakh steppes, there were few fair and daring judges like Biy.

Both land issues and widows' disputes characterize the trial in the novel "*Abai's Way*". Abai ends a feud between the Kazakh clans Kerey and Syban, which is centered on a widow named Salika, in this tale. It explains how to make a fair decision. The reason for this quarrel is that a girl named Salika's promised husband died before marrying her, leaving her a widow. Syban, a Kazakh tribe, planned to marry her to an elderly man who already had multiple wives. In this situation, Abai first frees Salika from the Syban clan and then decides to repay the livestock pledged in connection with this widow's lawsuit (Zhumaliyev, 1958, p. 17). In the text, Abay, who took the reins of power to resolve the dispute, begins his speech with the words "elim" (people) and "zhurtym" (public). By using the lexeme "people", Abay speaks of himself as a representative of that group and seems to express that he is involved in what is happening and that his soul is hurting. Subsequently, by activating the word "zhurt" and using the lexeme "elim", he emphasized his relationship with Kerey and Naiman, who represented his clan. The communicative tactic here is to establish closeness between Abai and the people of the two clans involved in the dispute and to emphasize that the dispute is a common problem for both Abai and the Kerey and Syban clans; it can be called a *rapprochement tactic*.

Further, Abay expressed the purpose of communication, that is, the purpose of his speech from the point of view of faith and mission of the arguing people, saying: "*Ortanga meni koiypsyng*" (*You put me into the middle*), "*Tetigimdi tap, tanymydy ber*" (*Find a way, demonstrate your knowledge*). People believed that Abay would fix their flaws, being a wedge (*Synga saldym, zharyqshagyma zhamay bol, syna bol*). Thus, he said that he would try to repay the faith of the people.

In plots depicting the minds and cleverness of ordinary people or the Khan's daughter, conversational information reflects the structure of the notion of "*conflict*" in Kazakh fairy tales. Judges (Biy) are the objects of dispute resolution in oratory, while a representative of the common people (youngest son or orphan) is the topic of conflict resolution in fairy tales, who solves the riddle, meets the conditions of the khan or his daughter (Dosymbayeva, 2004, pp. 47-53). These objects are portrayed as symbols of logic and knowledge. A quarrel with a khan's daughter or a beautiful female is the most prevalent source of strife. We believe that in the Kazakh steppes, the desire to find a fair solution to controversies and inconsistencies in fairy tales evolved into the art of oratory, which helped establish the judicial institution.

Litigation in Kazakh heroic and lyric-epic songs such as "*Kozy Korpesh – Bayan Sulu*" and "*Enlik – Kebek*" dramatize the struggle between personal desire and communal law, mostly ending in a tragic resolution. Conflict-related conceptual structures are frequently expressed in Kazakh heroic songs, often in war, heroism, or clan warfare contexts, depending on the song's goal. Land disputes were implied in the framework of a war, a struggle between two best warriors, or clashes between Kazakh clans, although they were not resolved through language, as in oratory (Levshin, 2005, p. 2).

As the name implies, lyric-epic songs are about a profound love between two young people, a boy and a girl. In the songs, feelings of love for each other eventually became a tragedy and a symbol of love. “*Kozy Korpesh-Bayan Sulu*,” one of the Kazakh people’s lyric-epic songs, clearly depicts the girl’s conflict (widow) (Sadyrbaev, 2005, p. 24). Kozy Korpesh and Bayan Sulu die at the end of the song. According to the song, Karabai and Sarybai perished after returning home from a hunt. Sarybai’s wife gave birth to a lovely girl, whom she called Bayan. Karabay’s wife had a son named Kozy Korpesh. Sarybai, on the other hand, referred to the lovely girl as an orphan following Karabay’s death and refused to marry her to Kozy Korpesh:

<i>Qudaǵı baryp zhurdı qudasyna,</i>	<i>The matchmaker went to his match,</i>
<i>Almaidy mal berem dep qarmansa</i>	<i>Doesn't take it even if he promises to give</i>
<i>da.</i>	<i>livestock.</i>
<i>Beyshara, zhetim-zhesir dushpanyñ</i>	<i>Poor orphans and widows have many enemies,</i>
<i>köp,</i>	<i>Although I cannot afford my livestock.</i>
<i>Öz malym zhetip asar almasam da.</i>	<i>Saryeken walked and defended with pity,</i>
<i>Saryeken ayaǵan bop qorǵap</i>	<i>Thinking about what time it will be.</i>
<i>zhurdı,</i>	<i>When the children reached the age of eight,</i>
<i>Bolar dep zaman qalai oilap zhurdı.</i>	<i>Sarybai had a stomachache, and he was</i>
<i>Balalar segı zhasqa kelgeninde,</i>	<i>suffering.</i>
<i>Sarybai ishı auyryp tolǵap zhurdı.</i>	<i>Sarybai was cold-blooded, thinking badly,</i>
<i>Sarybai salqyn tartty sumdyq oilap,</i>	<i>Her soul led to bad thoughts.</i>
<i>Qozady bir zhamanǵa kōñılı boilap.</i>	<i>“Than giving a daughter to an orphan</i>
<i>“Özi zhetim balaǵa qyz bergenshe,</i>	<i>I'd better marry her for a puppy with a white</i>
<i>Kúshikke bersemshı ala moinaq.</i>	<i>neck.</i>
<i>Zhetimge qyz bergenim súyekke min,</i>	<i>I will be condemned if I marry an orphan,</i>
<i>Alys ketsek bizdi izdep barady kim”</i>	<i>Who will look for us if we go far?”</i>

After saying this, the matchmaker bolted from late Karabay. When one of the Nogaily clan’s traders heard about Bayan Sulu’s beauty, he proposed to marry Sarybai’s daughter to Bek Nogaily Abdijappar. He began to threaten that if he did not marry, he would destroy the entire family. Bayan Sulu decided to play a trick at this point. She promised Abdijappar (Kodar kulu) to be her slave for the next ten years. She will marry him just after that. She expected her betrothed to appear at some point during this period. Kozy Korpesh had no idea at the moment that he had been betrothed to Bayan Sulu since birth. He tore the chain around the old woman’s neck one day while playing. “*Such an adult, rather than breaking my chain, why not marry your betrothed?*” the old woman said, looking at him (Sadyrbaev, 2005, pp. 47-49).

The old woman’s remarks shattered everything completely. Kozy Korpesh goats arrived at the house and demanded an explanation from Mom, who said they did not want to marry Sarybai’s daughter and that the contract had been destroyed. Kozy Korpesh goats traversed a treacherous path to Aul Bayan Sulu. He met Sarybai and learned that she was seeking her missing livestock. Daughter-in-law Aisulu accompanied Kozy Korpesh to his meeting with Bayan. Sarybai’s entire family attended a wedding in a nearby village. Kozy Korpesh and Bayan Sulu fled together and hid in the Shokterek area. When Myszhan learned

of this, he began yelling, “*The enemies came and snatched the girl*”, provoking Kodar. At this point, Kodar had assembled a hundred men and was chasing Bayan into the Shokterek area. Kodar and Kozy Korpesh engaged in a duel, with Kozy Korpesh emerging victorious. Then he married Bayan and brought her to his land. At that time, Kodar arrived in Sarybai, claiming he had been waiting for Bayan for 10 years and demanding that Bayan either leave the country or pay a kalym for the 10 years he had been waiting. To get rid of Kodar, Sarybai paid him a hundred camels and a hundred horses. “*Nogai could not return his daughter, but made her a slave of the Kazakhs*,” Kodar remarked in his hamlet after receiving payment (Sadyrbaev, 2005, pp. 51-53).

Kodar could not measure himself; he arrived at the village of Kodar dressed in rags. He caught Kaza off guard and stabbed him in the heart. Seeing this, Bayan dismembered Kodar and killed him. She hugged Kozy Korpesh and asked her father to build him a minaret. “*I want to die in old age and be buried close to him*,” she stated as she dug her own grave. “*Kozy Korpesh – Bayan*,” she scribbled on the minaret. She stabbed herself in the heart and died after a seven-day remembrance of Kozy Korpesh (Sadyrbaev, 2005, pp. 86-89).⁶

The song covers a quest for a wedding, a disagreement over a girl, a debate over the worth of ten years, and the deaths of two loves. Almost all of the Kazakh people’s lyrical and epic songs revolved around a girl’s argument or a widow’s disagreement. Although the court of Biys is absent from this epic, the lyric-epic song’s compositional structure includes love between a girl and a guy, love and hurdles, and tragedy.

There are epics in folk art based on true incidents, with characters not drawn from myths or fairy tales. Ordinary individuals, many of whom are historical personalities, take part in such poems. These are the so-called lyric-epic poems, which describe how the Kazakh’s forefathers lived, how they connected with them, and how they dealt with ordinary issues. The lyric-epic poem “*Ayman – Sholpan*” holds a distinctive place among these works (Arġimbayev, 1973, pp. 23-27).

The battle between the wise sisters Ayman and Sholpan and the power-hungry Kotibar is the poem’s main theme. Rich man Kotibar of the Shekty tribe assaults the aul of rich man Maman of the Tama tribe and kidnaps his daughters for ransom. Kotibar wants to marry the lovely Ayman, but the intelligent girl manages to dissuade him and make peace with her father with the help of cunning. The poem encapsulates all of the vicissitudes of the tribal struggle for dominance (Kaskabasov, 1985, p. 18). Ayman appeals to Kotibar’s senses, reminding him of the honor and nobility laws. As a result, she trades Sholpan, her younger sister, for Arystan, Kotibar’s brother, and the two clans are reconciled.

The tragic story of “*Enlik and Kebek*”, reportedly set in the Chinggis mountains of the Semipalatinsk region at the end of the 18th century, acquired a concentrated expression in Kazakh variants of the plot under examination. Here’s a little narrative about her: Kebek, a young guy from the Tobykty tribe, fell in love with Enlik, a female from the Naiman clan. Enlik, on the other hand, was already married to someone else. The young man then abducted her. They soon had a kid. The girl’s outraged relatives demanded the fugitives’ surrender, threatening the Tobykty with raids. The Tobykty chose to accept their situation at the council of Biy’s (Kaskabasov, 1985, p. 10). The lovers were tried based on honor, and they were sentenced to death under the steppe law. The child, who had been left to fend for himself, died soon after.

From a legal standpoint, the Biy’s decision was acceptable, as they acted within the framework of customary law, which was sanctioned by the authority of their forefathers. In other words, the Biy council’s verdict adhered to established tradition and represents

collective justice. Young people were to be severely punished for their willfulness, up to and including murder, according to the “*text*” of the law. In our opinion, the narrative of “*Enlik and Kebek*” was originally told as a factual story or a toponymic tradition of a local figure, explaining the name of one of the Chinggis Mountains’ hills (the burial place of lovers) (Leviton, 1988, p. 333). In his epic work “*Abai’s Way*”, Mukhtar Auezov describes the various forms in which the story of unhappy lovers might live among the people. In one of the work’s chapters, the main character Abai, after driving up a modest steppe hill with his pals, says: “*Here are the graves of a zhigit (young man) and a girl. Kebek was the guy’s name, while Enlik was the girl’s. Those who lived with them at the same time were obligated to kill both of them due to a horrible family tradition. To kill for the sole reason that they loved each other... They were tethered to horses’ tails and carried galloping across this land till their bodies died... So, a hundred years ago, the clan’s law was enacted. “Persecuted like monsters, hounded, unfortunate, Enlik and Kebek fled from pursuit over there, in the Horde’s highlands”, the story continues. Their son was born here, the fruit of a brief, beautiful love that was not meant to last. They were apprehended and put to death. The boy was brought and thrown there, on that naked top. A defenseless thing wept on the stones till late at night (...). Only at night did the voice of the lonely children go away... It had been silent for a long time*” (Auezov, 1972, pp. 9–10).

The legend itself has not been passed down to us, but its plot has been recreated using dastans from the turn of the nineteenth and twentieth centuries, as well as their prose transcriptions. In 1882, an unknown author published an essay titled “*The Secret Legend of the Kazakhs*” in the Kazakh language in the “*Kyrgyz Steppe Newspaper*” (Suyinshaliyev, 2006, p. 31). The article begins with extensive comments on Kazakh life and customs in the past, including family and marital conventions and organizations. The author discusses the equality of men and women, as well as the nature of genuine love, which is capable of conquering all barriers in its path, even if it means death.

Kebek, a 20-year-old batyr (hero), was a member of the Tobykty clan. He was married, but he despised his spouse. Kebek went to the Abyz (sage-diviner) Nysan to find out his fate when he was overcome by longing. Abyz foretold a wonderful future for him, but also a premature death due to the female he would meet “*in the mountains, on a lonely rock, near a fast-flowing river, in the thickets of the forest*”. After a period of 7-8 years of valor in pacifying the tribe’s foes, Kebek went hunting one summer and wandered into the Khan Mountains on the Naiman clan’s territories. In quest of a place to stay for the night, he came to a little aul in an area that, according to the description, matched Abyz’s predictions. He met the lovely Enlik here (Kakishev, 1994, p. 228). The first section of the prophecy was fulfilled in this manner. The two young people fell in love, but Enlik was promised to a relative who had already paid most of the kalym (bride’s dowry) and was planning the wedding. Kebek, posing as a hunter, paid several visits to the girl’s aul before kidnapping her one night. For a time, the lovers were happy; they soon had a son, and it appeared that the second portion of the prophecy would be fulfilled.

Meanwhile, Enlik’s parents and relatives discovered the fugitive’s whereabouts after a lengthy search and demanded her extradition, which was denied. Armed conflicts broke out between the Tobyktins and the Naimans, lasting two years and claiming many lives, and destroying more than one aul. Finally, the Biy’s council agreed to halt the lengthy legal battle. It was agreed to hand over the culprits in the conflict to the opponents by the direction of the Tobykty supreme Biy, Kengirbay. The Naimans were swift to deal with them, first tying Kebek to the tail of a horse and then tying Enlik to the tail of a horse. She asked the orphaned infant to be spared and cared for before she died. But no one listened to her cries,

and the baby stayed in the cradle on the hill, where he most certainly died from the strain of wailing. In the end, the author cites the graves of Enlik and Kebek, the biys of Toktamys and Kengirbai, whose decisions determined the lovers' fate, and notes that descendants of Kebek's first wife still speak of their ancestor's brutal retaliation (Kakishev, 1994, p. 231).

This classic plot had diverse semantic content in different historical epochs. His ideological and aesthetic anguish in the Middle Ages boiled down to defending the inviolability of patriarchal clan foundations and criticizing young people who dared to disobey their parents' will, thus challenging the idea of fate and predestination in their person. However, as feudal relations deteriorated over the years, this basic attitude changed dramatically, evolving into a hymn to lovers. Now, through the subject under discussion, a protest against the "pre-construction" order's inertia and conservatism is becoming increasingly audible, and individual liberty is being proclaimed.

The family and everyday conflict progressively obtains a societal connotation with the transition of folklore variants into literature, and the problem of a woman's emancipation, her right to freedom of choice, is added to the storyline, which was not in folklore. In other words, new wine is poured into the old skins every century. At the same time, the plot not only allows for era-specific interpretations but also qualitatively fresh ideological substance, allowing the most pressing issues of the moment to be addressed.

Conclusion

A full layer of rules and norms has formed in the Kazakh traditional customary legal system to establish the nature and status of conflicts. They had thoroughly established themselves in the public's legal consciousness and were, in many ways, the content of its traditional mentality. Short and evocative sayings-formulas are used to express these principles and norms: "*Atañyñ balasy bolma, adamnyñ balasy bol*" (Do not be the son of simply your father, but the son of humanity) and "*Tasta tamyr zhok, Bide bauyr zhok*" (The stone has no root, and bi has no related). In its "old form", the court served as both a court of justice and a court of the people. It was carried out in a dynamic legal environment, with a focus on institutional normative institutions of universally significant traditions and customs, as well as power normative institutions devoid of caste, class, and regional claims. General ethnic interests were prioritized over customary law rules. The decision was determined by a judge-Biy, who was neutral and independent, rather than on behalf of the clan, territory, or region.

The Kazakh court settled disputes and conflicts brought before it by the parties, based on the necessity of achieving the parties' reconciliation and the need to remove not so much personal, but social vices. The Biy's - judges had studied in steppe sage schools, were scientists (not from books, but from life), had passed exam stages before the older generation, possessed eloquence and logic of judgment, and were specialists in Kazakh law. Only in this form did the Biy's court give the Great Steppe of the Kazakhs the halo of the golden period of justice, law, and order in its era.

Eloquence and logic were included in the tools of proof and persuasiveness in Kazakh law. In Kazakh society, the power of words was so great that individuals who mastered the art of speech to such an extent, especially in the Biy's court, often won and triumphed in

debates. Disagreements have always been settled by the Biys, as can be seen in Kazakh fairy tales and lyre-epics. Their decision has sometimes tragic consequences. The Biy's institute fell into disuse and eventually vanished by the end of the nineteenth century. It was at this time that the tsarist administration began to appoint Biys, or elections for Biys were held at its request, and exclusively from among the sultans. The eventual demise of the court of Biy's, as well as the Biy's themselves, occurred during the Soviet administration in the twentieth century.

¹ Only in traditional Kazakh society does the biy institution exist. This institution actually and fully functioned only in the 18th century, having achieved the classical phase in its growth, as an independent, self-sufficient sociopolitical entity, performing in Kazakh society at the same time: political, social, cultural, and intellectual functions. The term "Biy" first appears in Turkic literature from the 15th to 16th centuries, where it does not totally replace the concepts of "Bek" (*Beg/Big*) and "Ulus Bek". The Kazakh Khanate gradually grew stronger in the 15th and 16th centuries. In Kazakh society, the term "Biy" refers to the leader of tribal divisions that consolidated administrative and political power over the controlled clans and served as steppe judges (*Materials on Kazakh Customary Law (1998), Collection 1, Almaty: Zhalyyn*).

² During a tribal conflict, barymta (hostage) is a demand or robbery of animals from a hostile tribe. Property theft is a concealed theft. That is, the perpetrator steals things in stealth, hoping that the victim and others will go unnoticed. This is the distinction between thievery and barymta. The concept of barymta originated in ancient times within the Kazakh people's traditional legal culture. Initially, Barymta was a progressive figure. Because the "blood-to-blood, soul-to-soul" tradition exacerbates hatred between people, tribes, and clans, the court was authorized to take the accused's livestock tribe or clan if the guilty party could not reimburse or avoid the ransom by the Council of Elders for different reasons (Sapargaliyev Maksat (1966), *History of the People's Courts of Kazakhstan, Alma-Ata*).

³ On Nicholas I's initiative, Russian law was codified in 1830, and the Complete Collection of the Laws of the Russian Empire was produced. During the first two decades of the nineteenth century. Officials from the Orenburg and West Siberian administrations made several attempts to codify customary law. Despite their efforts in 1824, 1840, 1845, 1846, 1854, and other years to gather and codify the adat norms, they were unable to do so. It's worth noting that, in the first half of the nineteenth century, the practice of codifying both imperial and local laws had the purpose of increasing understanding of customary law and using it to instruct judges in border people's court proceedings. This demonstrates that the imperial administration first pursued a long-term (in the long term) strategy of incorporating local legal culture into the imperial socio-cultural realm.

⁴ There was no concept of "constitution, constitutionalism" during the Kazakh Khanates existence. Nonetheless, there were obligatory norms governing the actions of the state's top legislative power, the Kurultay (Maslikhat), which met regularly. Representatives from all Kazakh communities, as well as several powerful sultans, made up this committee. Maslikhat (Kurultai) meetings were held once a year, generally in the fall in Ulytau, Turkestan, or near Tashkent (the gathering places were different in different centuries). There were rules governing elections of the highest and local authorities (khan and local rulers), rules governing the making of fateful for the country and current state decisions, rules governing executive discipline along the entire vertical of power in the khanate, and the presence of an institutional institution of legislative power, executive and administrative authorities, and the judiciary in varying degrees in the khanate (Sarsembayev Marat (2015), *Kazakh Khanate as a sovereign state of the medieval era, Astana*).

⁵ Tazsha Bala is the main character in a series of humorous Kazakh traditional stories. Uzbeks, Tatars, Karakalpaks, Turkmens, Khakassians, Buryats and Mongols all have similar versions in their oral literature. Other fairy tales from Kazakhstan include "Sly Tazsha", "Clever Tazsha", "Forty Oral Lies of Tazshi" and others. They are also defined as men from other countries who are smart, resourceful, cunning, and courageous ("Kazakh literature", *Encyclopedic reference book (2010), Almaty: "Aruna LTD"*).

⁶ The East Kazakhstan Museum of History and Local Lore has reproductions of papers dating back to the 19th century that pertain to the study of this remarkable historical cultural monument, including notes and drawings by Shokan Valikhanov, Nikolai Abramov, and Nikolai Pantusov. The monument was explored by Alkey Margulan's archaeological expedition in 1952. The monument was added to Kazakhstan's list of historical and cultural monuments in 1982 and placed under official protection. The four-sided mazar is made of flat stone and narrows dramatically towards the top, forming a rounded finish. The monument is made up of overlapping

limestone rows set in clay mortar. The Mazar stands 12 meters high. It has been renovated multiple times, as a consequence of which the entire surface, which was extensively chipped in pre-revolutionary images, has now been leveled by masonry, and two tombstones have been erected in the cell (Kozy Korpesh and Bayan Sulu).

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