

“The Last Word of the Biy:
Colonialism and Adat in the Middle Zhuz of the Kazakh Steppe”

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Introduction

The 19th century was a period of radical changes in Kazakhstan's traditional social and political culture, primarily related to the colonial policy of the Russian Empire. During this period, under the pressure of administrative and legal reforms, the Kazakhs experienced the destruction of popular institutions, which for centuries served as a support for the authorities and the people. Especially important in this context is the study of legal institutions, such as adat, a set of unwritten legal customs passed down orally from generation to generation. Adat regulated much of the nomads' legal and cultural relations, from marriage to land division to cases of murder and theft. The practical implementation of the norms of adat was inextricably linked with biys, who were not only judges, but also authoritative leaders of their clans. They owed their titles exclusively to their knowledge of adat, folk customs, intelligence, and oratory. In fact, biys were endowed with both judicial and executive powers, which made them significant political players in the life of the steppe. However, as a result of the Russian colonial reforms carried out throughout the nineteenth century, this institution gradually began to decline and lose its former significance. This is particularly evident in the case of land disputes. Land, especially land

suitable for nomadic pastoralism, had always been a valuable resource, as the survival of Kazakh tribes depended on it. There were traditional mechanisms for settling land disputes and dividing up land, in which biys played a key role. With the advent of the Russian administration, these mechanisms ceased to matter, and with them the status of people's judges decreased. The analysis of these processes will help better understand the essence of the social and cultural transformations that swept the Kazakh Steppe in the 19th century.

In this regard, the main research question of my thesis is the following: why did the institution of biys, which played a key role in the life of Kazakh society and in its traditional legal system, lose its political influence and significance in the 19th century, and what factors played a decisive role in this process? As my analysis will show, the institution of biys gradually lost its significance mainly due to the legal-administrative reforms promulgated throughout the 19th century. To display this, it is necessary to solve a number of tasks. First, it is necessary to start with the study of adat in the pre-colonial period of its existence. This will help understand what were the traditional mechanisms for achieving justice and order in a nomadic society. The next step is to define the role of biys in this system. A deep understanding of these figures will help us understand how the 19th-century penal reforms have affected biy's ability to administer justice and perform their leadership functions. Further, it is necessary to analyze the tsarist reforms in order to understand what functions and roles were assigned to biys in the new socio-political realities. Next, we will look at the traditional mechanisms for resolving land disputes, so that later we can compare them with what happened to them as a result of administrative and legal reforms. In this context, I will briefly discuss the migration of the Slavic population to the territory of Kazakhstan in order to better understand the socio-economic context in which the people's justice found itself. Then, based on archival materials, we will study land disputes

between Kazakhs of the Middle Zhuz in order to see changes in legal practices, including the transformation of the institution of biys. Then, I shall study the institution of unofficial biys, or aksakals, and their role in the hybrid justice system. The last task of my research is to analyze the views of representatives of the Kazakh intelligentsia on adat and the future of the institution of biys. This will help to assess the state of this institution at the turn of the twentieth centuries.

Thus, the object of my research in a broad sense is adat and the institution of biys, as well as their functions and role in the colonial justice system. The subject of my work is the dynamics of the decline of this institution. I will show how it was changing over time and what factors led to its decline by the beginning of the twentieth century.

The main source base of my research are unpublished archival materials taken from the Central State Archive of the Republic of Kazakhstan (CSARK). These materials are copies of court cases on land disputes among Kazakhs of the Akmola (fund 369, opis' 1) and Semipalatinsk (fund 15, opis' 1) oblasts. A significant disadvantage of the materials collected in the CSARK is the fact that they were compiled by the colonial administration, which can significantly distort the reliability of the facts described. It is also worth noting that not all collected archival materials contain all the necessary documentation. For example, in some land dispute cases, there are no documents showing the resolution of the case, which calls into question the validity of the analysis. Interpretation of these materials is also complicated by the inability to verify the events described: there are no alternative sources for comparison, that is, everything that is known about these cases is voiced only from the point of view of colonial officials.

My work is also based on newspaper and magazine articles from various periodicals compiled in the form of collections: the newspaper "Kazakh", the "Aikap" journal, as well as

“Kyrgyz Steppe Newspaper”. In addition, an important source is the Complete Collection of Laws of the Russian Empire, which contains the necessary provisions for research on the administration of the Middle Zhuz Kazakhs. In addition, the source is the collection “Alash Orda”, which contains the necessary materials of Kazakh congresses, as well as the political program of the party “Alash”. Using this source, we can establish the attitude of Alash-Orda activists and, in particular, of Alikhan Bukeikhanov, to the institution of biys and adat.

In addition to that, I rely on the works of the scholars in the service of the Russian Empire. The first of the works that shed light on Kazakh customary law is an extract from the work of the Russian ethnographer A. I. Levshin “Description of the Kirghiz-Cossack or Kirghiz-Kaisak Hordes and Steppes”, published in 1832. In his work, Levshin briefly describes the order of choosing khans in the Kazakh steppe, the laws of Tauke Khan, the functioning of the institution of biys, as well as various rituals. Levshin's work, although brief, begins from an introduction to this institution in its pre-colonial form. Despite the fact that his information is based on the materials of the Foreign Ministry of the empire, as well as on his own observations made during his trips to the Kazakh steppe, and the fact that more than a hundred years have passed since the declaration of the laws of Tauke, this source most fully reveals the orders and customs of the Kazakh people. The list of the central primary sources of this period also includes the work of Chokan Valikhanov “Note on Judicial Reform”, dedicated to the upcoming reforms of the 1860s. In his note, Valikhanov criticized the imperial administration's approach to collecting Kazakh opinions on the administrative and legal structure of the steppe, as he believed that these opinions were collected mainly from representatives of the Kazakh nobility - sultans and aksuyeks, while the opinion of the common people was not taken into account. According to Valikhanov, the people expressed their support for the institution of biys in its traditional form

and believed that it was quite suitable for their lifestyle and economy. It should be noted that in these and other works of the imperial period, the attitude of researchers to the character and customs of the Kazakhs is clearly traced. Thus, Levshin in his work tried to convey the “archaic” and “patriarchal” customs and institutions of the Kazakhs, and Valikhanov, despite the support of customary law, noted the “savagery” and “unreasonableness” of the Kazakhs, thereby emphasizing their unwillingness to accept all-imperial legal institutions.

The greatest value for this study is a range of secondary sources produced during the period of independence of the Kazakhs in 1991. These include literature in Russian and English. Among all the sources, Virginia Martin's book “Law and Custom in the Steppe” is distinguished by its completeness and approach. Virginia Martin focuses on the remaining records of various litigation cases, the official biy court rulings, newspaper and magazine articles and other first-hand sources in order to investigate the actual state of affairs. Generally, Virginia Martin came to a conclusion that even though Russians were the ones to establish law *de jure*, their powers were limited - nomads chose the ways to interpret imperial law as a supplement to their custom; Kazakhs did not blindly abide the “frozen” codified statutes as it contradicted the very nature of customary law, which allowed for flexibility and interpretation. Virginia Martin also argues that within the framework of colonial context, Kazakhs were able to adapt their traditions in the way that would best help maintain their own legal customs, particularly the institution of biys. Despite its corrupt and inefficient state at the end of the nineteenth century, Kazakhs advocated for its reformation rather than choosing new rules and legal systems. This emphasizes the importance and preferability of the institution of biys in the eyes of Kazakhs.

Another insightful source is Paolo Sartori and Pavel Shabley's book “Experiments of the Empire. Adat, Shariah, and the Production of Knowledge in the Kazakh Steppe”, which mostly

aligns with Virginia Martin's argument but additionally reveals more about parallels between shariah and adat legal norms. The book also provides an extensive analysis of legal-administrative reforms. It is also worth noting Ian Campbell's book "Knowledge and the Ends of Empire", which contains an analysis of the period when reforms of the second half of the 19th century were only at the stage of discussion. The author notes that most Russian researchers and officials were against the introduction of the provisions of 1867 and 1868, but their appeals were not heard, because due to the geopolitical situation, it was necessary to speed up the process of including the Kazakh Steppe in the general imperial administrative and legal space. Among the Russian-language sources, it is worth noting the works of the Kazakh historian Zh. S. Mazhitova, who in her scholarly articles examined the institution of biys from various angles: from the point of view of the colonial administration, from the point of view of the Kazakh intelligentsia of the early twentieth century, and also considered the issue of people's courts in Soviet times.

The scholarly novelty of my work consists in an attempt to consider the decline of the institution of biys in dynamics, as a separate historical process, as well as at the micro-historical approach on the example of land disputes that reflect this very decline. This approach allows to analyze the process of transformation of the institution of biys under the pressure of external circumstances, such as administrative and legal reforms, as well as the resettlement of the Slavic population to the territory of Kazakhstan. The theoretical significance of my work is that it complements the existing historical and legal literature, especially with the analysis of land disputes, as the most significant indicator of the decline of traditional institutions. I believe that my research will help better understand and re-evaluate the concepts of legitimacy, legal culture, and the sustainability of local institutions in the face of an encounter between the empire and the colony.

Structurally, this work consists of three chapters, each of which examines the institution of biys in a certain historical period. The first chapter examines adat and the biys in their pre-colonial period. Part of the chapter is also devoted to the reforms and their impact on the institution of biys and legal relations in the steppe in general. This is a starting point in my research to further analyze how the colonial reforms affected the state of this institution. The second chapter examines traditional mechanisms for resolving land disputes between Kazakhs, as well as how the resettlement of the Slavic population affected these mechanisms. Much of this chapter focuses on specific examples of land disputes between the Kazakh population in the context of intense competition for land and water. Through analysis of these cases, a bigger picture of the level of authority and influence of biys in the service of the Russian Empire is revealed. The third chapter is devoted to the analysis of the views of representatives of the Kazakh intelligentsia of the early twentieth century and their ideas to reform traditional legal institutions. In the final part of the study, the conclusions will be presented, as well as an assessment of the prospects and limitations of this study.

Chapter 1. The institution of biys in pre-colonial and colonial era

1.1. Adat. The transformation of the institution of biys in the Kazakh steppe should be viewed through the lens of the changes in the judicial processes guided by customary law, or *adat*. Only by studying *adat* can we understand the role that was traditionally designated to the biys and the judicial mechanisms at their disposal. In this Chapter we will see how these judicial roles and mechanisms were displaced by the legal-administrative reforms imposed on nomads by Russian colonialism, which resulted in the destruction of traditional dispute resolution.

Since the formation of the Kazakh Khanate in 1465 and until the 1920s nomadic life was largely regulated by ancient customary practices transmitted orally from generation to generation. The significant part of these practices consisted of customary law, or *adat*. The word itself traces roots to the Arabian peninsula and has a meaning of “wont”, “usage”, and “practice”¹. According to Virginia Martin, “In its broadest sense, *adat* referred to the guiding principles governing the behavior and interaction of individuals within the nomadic community and its kinship structures, which were upheld and enforced in everyday life by commonly-accepted obligations, responsibilities, sanctions and forms of punishment”².

It is difficult to estimate when and under what circumstances *adat* emerged or permeated the Kazakh steppe, as it is equally problematic to determine its initial sources, since the earliest records of Kazakh popular justice were produced only in 1730s by the Russian official Alexey Tevkelev. Martha Olcott argues that “the longest-standing innovation of Mongol rule was the application of the “*Yasa*”, a codified law based on a combination of customary practice and

¹ Clifford Geertz, *Local Knowledge: Further Essays In Interpretive Anthropology* (New York: Basic Books, 1983), 209.

² Virginia Martin, *Law and Custom in the Steppe: The Kazakhs of the Middle Horde and Russian Colonialism in the Nineteenth Century* (Richmond, Surrey: RoutledgeCurzon, 2001), 25.

Muslim precepts, which served as a precedent for a Kazakh system of customary law”³, suggesting that adat consisted of various legal practices. This perspective is also supported by Altaiy Orazbayeva, who assumes that later codified versions of adat, such as Khan Tauke’s “*Zheti Zhargy*”, or Qasim Khan’s “*Qasqa Zholy*”, were based on Mongol “*Bilik*” and “*Yasa*”⁴.

Prior to the seventeenth century, Kazakh customary law was uncoded and applied locally, and Kazakhs did not distinguish between civil and criminal law⁵. The first attempt to codify and regulate customary law was undertaken by Khan Tauke, who “encouraged the formalization of the legal process”⁶. Nevertheless, his code, *Zhety Zhargy*, was first written down by Mikhail Speranskii in the 1820s, who incorporated some of its provisions in his legal reforms⁷. These reforms resulted in the 1822 document called “*Regulations on Siberian Kirgiz*”, which governed legal and administrative matters in a newly annexed territory of the Middle Horde. Unfortunately, these Regulations reveal very little about the legal practices of Kazakhs of pre-colonial era and only reflect Russian legal sensibilities imposed in nomads, such as division between criminal and civil cases⁸.

A more detailed exposition of adat, and particularly of Tauke’s Code, was described in Alexei Levshin’s 1832 work “Description of Kirgiz-Cossack and Kirgiz-Kaisak Hordes”. Levshin recorded various legal customs including elections, criminal cases, civil cases, appropriate punishments, executions, legal procedures, wedding rituals etc. Although later attempts to codify and order Kazakh legal practices included changes to the ‘original’ laws, they

³ Martha Olcott, *The Kazakhs* (Stanford: Hoover Institution Press, 1995), 6.

⁴ Altaiy Orazbaeva, *Formula kazakhskoi gosudarstvennosti* [The Formula of Kazakh Statehood] (Moscow: PRESS-BOOK.RU, 2017), 189.

⁵ Olcott, *The Kazakhs*, 15.

⁶ Ibid.

⁷ Ibid.

⁸ *Ustav o sibirskikh kirgizakh* [Regulations on Siberian Kirgiz], in *Rossia. Zakony i postanovleniia. Uchrezhdenie dlia upravleniia sibirskikh gubernii* (S.-Peterburg: Senatskaia tipografiia, 1822), 21.

explored adat even more and gave important insights into some legal violations, spheres, and procedures, such as divine worship, role of judges, witnesses, concealment, and other.

To better comprehend adat it is crucial to understand the context in which it existed. Adat in the Kazakh steppe as a public justice was a reflection of the nomadic lifestyle, which consisted of three key elements: land, livestock, and kin. The natural features of the terrain, namely, continental climate, arid deserts and semi-deserts, lack of precipitation, and vast steppe lands, for centuries formed the basis of the main economic activity of its dwellers. In this context of harsh natural reality nomadic pastoralism was the only way for Kazakhs to survive. Nomads would follow the livestock to pasture lands depending on the season of the year. Later, livestock would provide nomads with food, shelter, and clothing. Moreover, in the society where metals were not used as a source of monetary exchange, livestock played a role of currency⁹. To be able to lead this kind of lifestyle, Kazakhs lived in small groups (*aul*) of people belonging to the same clan based on kinship ties. Adat and nomadism were based on kinship, land, and livestock, which were manifested in the figure of the *biy*¹⁰.

1.2. The traditional role of the *biy*. There are different perspectives in historiography on the emergence of the word *biy* and their role in Kazakh society before the nineteenth century administrative reforms imposed by Russians as a part of colonial policy. According to Useinova, most of the scholars in the field agree that the word “*biy*” originates from the Turkic word “*bek*”, which has the same meaning as Mongolian “*noyon*” and Arab “*emir*”¹¹, and implies that individuals bearing the title held leadership positions in their communities. Indeed, only the *biys*

⁹ Olcott, *The Kazakhs*, 16-17.

¹⁰ Martin, *Law and Custom in the Steppe*, 17.

¹¹ K.R. Useinova, “*Rol' i mesto instituta biev v traditsionnom obshchestve kazakhov* [The Role and Place of the Institution of *Biys* in the Traditional Kazakh Society],” *Izvestiia Natsional'noi akademii Respubliki Kazakhstan*, no. 5 (2012): 34.

(apart from the khan) held judicial, administrative, and military authority within the clans they ruled, giving them unique privileges. This authority afforded the biys some political clout, as seen by their participation in resolving national issues along with the sultans and their joint appearance at the yearly “people's assembly”¹². In this regard, it is relevant to recall the following story, collected by the Soviet writer Gerold Berger, about the famous seventeenth century statesperson and lawmaker - Aiteke biy. The story reveals some important insights about the institution of biys as it was perceived by people before the reforms of the 19th century.

The legend has it that after having fought with the Jungars and liberated the ancient city of Sairam, Aiteke biy turned to khan Tauke with the criticism of his actions as a military leader in the struggle against Kalmyks. Particularly, Aiteke biy accused the khan of the inability to unite the three Kazakh zhuz, failure to prepare young warriors, and his unwillingness to give up his role as a commander in chief¹³. Even though Aiteke failed to convince the khan and scattered sultans, this imaginary story reveals how biys were perceived in the eyes of common people. As the legend suggests, biys were able to speak to the khan freely and openly, telling the uncomfortable truth in a straightforward manner, and without a fear of being punished. The authority of biys enabled them to talk with the khan on equal terms, and consult him regarding a wide span of affairs and point out his mistakes and weaknesses.

Moreover, khans not only relied on biys as their advisors but also as their direct political supporters. As Mazhitova notes, in a system where the title of khan was not hereditary but elective, support of influential *kara-siuek* (non-chingissid) representatives, such as biys, was extremely significant for *ak-siuek* (chingissid) sultans who claimed the supreme power. This, the

¹² Ibid., 35.

¹³ *Rasskazy o biakh* [Stories about the Biys], comp. and trans. G. Belger (Astana: Audarma, 2004), 154-160.

scholar argues, was due to the fact that biys were in charge of domestic and foreign policy of their clans, which automatically forced khans to respect their opinion and power¹⁴.

Another political role that modern scholars tend to assign biys with is that of diplomats. According to Mazhitova, “biys were active in leading diplomatic missions of Kazakhs to the Russian Empire, Jungaria, and China”¹⁵. Hence, in 1741 Abylai-sultan was taken as a hostage to the Jungar Huntaiji Galdan Tsereng. One of the conditions of his release was to leave batyr Zhapek as an *amanat* (pledge). The legend has it that this caused resentment of Kazybek-biy - a prominent figure in the 18th-century Kazakh politics. Being a brilliant orator and diplomat, the biy delivered a powerful speech to Galdan, which resulted in “successful ending of the diplomatic mission”¹⁶.

Of course, only a small group of biys have ever enjoyed this kind of trust, authority, and range of powers throughout Kazakh history. In fact, most of the biys’ role was restricted to that of a “nomadic clan leader and arbiter of disputes”¹⁷. Nevertheless, Kazakh customs provided for the fact that in the majority of instances an individual could only win the right to call oneself a biy. Particularly, one should have had a popular authority and acclamation to be granted a title of a biy. As Virginia Martin argues, the biy has historically held his title without any official training or appointment to a position. Instead, he embraced the distinction of being referred to as a biy because of his proficiency in Kazakh adat and his capacity for impartial dispute resolution. Obviously, there were cases when biys’ impartiality and fairness were in question but it is

¹⁴ Zh.S. Mazhitova, “Mesto i rol’ biev v sisteme khanskoi vlasti v otsenkakh rossiiskikh issledovatelei (XVIII – pervaiia polovina XIX v.) [The place and role of the biys in the system of khan authority in the assessments of Russian researchers (18th – first half of the 19th century)],” *Vestnik Leningradskogo gosudarstvennogo universiteta imeni A.S.Pushkina* 4, no. 3 (2014): 92.

¹⁵ Zh.S. Mazhitova, “Sovremennaia rossiiskaia i kazakhstanskaia istoriografiia o funktsiiakh biev v kazakhskom obshchestve [Contemporary Russian and Kazakh historiography on the functions of biys in Kazakh society],” *Uchenye zapiski Kazanskogo Universiteta. Seriya Gumanitarnye Nauki* 157, no. 6 (2015): 3.

¹⁶ *Ibid.*, 3-4.

¹⁷ Martin, *Law and Custom in the Steppe*, 26.

important to note that their well-being¹⁸ and the reputation of their clan and themselves depended heavily on how just their decisions were. Perhaps, for their talents and life experience Kazakh biys are usually portrayed as *aksakals* - old wise men with long white beards. In this regard, it is important to emphasize that the terms “biy” and “aksakal” were not interchangeable in the traditional culture: biys were usually aksakals, but not every aksakal held a title of the biy. Disputants went to a biy for assistance in resolving conflicts¹⁹ and to aksakals for advice and expertise. Usually every elderly member of the family was considered an aksakal, highlighting his status as an experienced and knowledgeable man.

The adjudication by biys within the framework of adat was drastically different from the European justice system based on strict procedure and legal codes. This also meant the difference in the goals of judiciary systems. Hence, Clifford Geertz argues that the goal of adat as a judiciary system, or the disposition of issues, is to practically move toward social harmony and individual composure rather than away from them toward dissonance and vertigo²⁰. It is within this framework of customary law that the purpose of the biy's decision was to maintain strong kinship ties and clan honor in the subsistence-based nomadic economy, not to determine guilt or innocence²¹. A vivid example of this is the use of oath in resolving disputes between nomads. In the cases when a biy was not satisfied by the sufficiency of evidence provided by litigating sides, a former would order that the plaintiff chose one respectable representative of the defendant's kin to take an oath that would certify the latter's integrity. It didn't matter to the biy whether the defendant was "guilty" or not if a Kazakh took an oath attesting to the defendant's moral character; what mattered was that kinship solidarity had been maintained by a respectable

¹⁸ Olcott, *The Kazakhs*, 15.

¹⁹ *Ibid.*, 27.

²⁰ Geertz, *Local Knowledge*, 211.

²¹ Martin, *Law and Custom in the Steppe*, 29.

individual so that other manifestations of nomadic kinship relations, like mutual aid or marriage arrangements, could continue to operate as usual²².

1.3. Russian 19th-century administrative reforms and the crisis of the institution of biys.

The gradual process of political, cultural, and economic inclusion of the Kazakh polity to the Russian Empire, that began with the 1731 treaty that placed the Small Horde Kazakhs under Russian protectorate and ended with the collapse of Romanov dynastic rule, has once and forever changed the legal custom that guided Kazakhs for centuries. These changes manifested in legal-administrative statutes promulgated throughout the nineteenth century disrupted the role of biys by making them dependent on Russian rule and, thus, promoted corruption and breaking of traditional ways of solving disputes between nomads.

Generally, the process of legal-administrative reforms in the Middle Horde can be artificially divided into two distinct periods differing in strategies used by the Empire. The first one covers the period from 1822 until mid-1860s, and the second one extends from 1868 until 1898 and onwards. I intend to analyze the differences and consequences brought about by these reforms in the course of the next paragraphs.

Annexation of the Middle Horde by the Russian Empire meant that the new territories needed a governing system that would fulfil the colonial goals of russification, settlement, and further socio-economic inclusion of the nomads into the Russian imperial space, and simultaneous prevention of uprisings caused by implementation of the new legal-administrative system. To achieve these imperial goals, colonial administration, particularly the Governor-General of Western Siberia Mikhail Speranskiy, proposed the idea of ‘civilizing’ the nomads by

²² Ibid.

the means of law²³. Speranskiy believed that a culture must be governed by laws appropriate to its stage of development, and it would be incorrect to attempt to impose laws on a culture that did not align with its developmental stage²⁴. This implies that Speranskiy believed the nomadic culture of Kazakhs was inferior to Russian-European civilization and, hence, the latter had to execute their civilizing mission gradually before Kazakhs adopted Russian culture and were susceptible to more active interference to their way of life.

These ideas were reflected in the 1822 Regulations on Siberian Kirgiz, which laid ground to the future legislative acts in a sense that it promoted the concept of gradual change of Kazakhs by the means of law enforcement. Aside from establishing new administrative divisions, introducing corresponding local administrative institutions, restricting nomadic migration, creating opportunities for Kazakh elites to serve in Russian institutions, and promoting agriculture, these Regulations “imposed Russian understandings of crime and punishment on the judicial principles of the Middle Horde Kazakhs”²⁵. Namely, all Kazakh disputes were divided into criminal, civil, and administrative cases, which was alien to Kazakhs, as such divisions never existed in traditional legal culture²⁶. Moreover, biys were restricted in solving cases regarding major violations such as murder, which now fell under the jurisdiction of the Russian administration. But most notably, the act of barimta, a biy-authorized temporal theft of livestock with the goal of restoring justice, was criminalized, even though it was “a legitimate judicial custom embedded in the Kazakh cultural understanding of wrongdoing, honor, and revenge”²⁷. This indicated that Russian lawmakers did not thoroughly explore the meaning and role of some

²³ Ibid., 34.

²⁴ Ibid., 36.

²⁵ Ibid., 35-36.

²⁶ *Ustav o sibirskikh kirgizakh*, in *Zakony i postanovleniia*, 21-23.

²⁷ Virginia Martin, “Barimta: Nomadic Custom, Imperial Crime,” in *Russia’s Orient: Imperial Borderlands and Peoples, 1700-1917*, ed. Daniel R. Brower and Edward J. Lazzerini (Bloomington, IN: Indiana University Press, 1997), 250.

of the nomadic legal customs and instead imposed their conceptions of justice to a completely different legal system. Such a superficial approach to the local customs was the main feature of Russian reforms in the steppe throughout the century and not only launched the process of decline of the institution of biys but caused inconveniences and troubles to the colonial rule.

During the course of the next four decades Russian administration made several efforts to codify adat as a gesture of benevolent rule inspired by Speranskiy's ideas of toleration of indigeneous legal traditions. Nevertheless, none of the versions of codified adat gained legal status due to problems concerning both the process by which the Kazakhs were surveyed for information and the way that it was displayed as a code²⁸. Moreover, the political situation in the Russian empire has changed ever since: uprisings in the Caucasus and in the Kazakh steppe made imperial rulers rethink their approach in empire-building. Instead of trying to legitimize adat, lawmakers and administrators decided to recast adat to fit Russian legal sensibilities and to take control of its practices. One of the transformative parts of this strategy was bureaucratization, which "gained its fullest expression in the 1868 Provisional Statute"²⁹.

The most important change promulgated by the 1868 Provisional Statute on the Administration of Uralskaya, Turgaiskaya, Akmolinskaya, and Semipalatinskaya oblasts was articulated in Article 135, which declared the electivity of biys, which made them Russian officials³⁰. Under the new legal system, a figure of a newly elected biy had to be confirmed by the Governor³¹. Biys were also restricted in the type of cases and the value of the cases they could hear: according to Article 146 of the Statute, they could hear cases "with a value not

²⁸ Martin, *Law and Custom in the Steppe*, 45.

²⁹ *Ibid.*, 48.

³⁰ *Vremennoe polozhenie ob upravlenii v oblastiakh Uralskoi, Turgaiskoi, Akmolinskoi i Semipalatinskoi* (S.-Peterburg: Tipografiia Ministerstva vnutrennikh del, 1883), 19. ("Provisional Statute on the Administration of the Uralsk, Turgai, Akmolinsk, and Semipalatinsk Oblasts.")

³¹ *Ibid.*, 20.

exceeding 300 rubles (15 horses, 150 sheep) but their resolutions [were] final only in cases not exceeding 30 rubles”³². Additionally, biys were partially deprived of their power to resolve land issues; these were artificially divided into “judicial” and “economic” ones. Disputes concerning overgrazing, seizure of land, or instances of breaching property rights, or “judicial” disputes, were placed under the jurisdiction of biys³³. Issues pertaining to the allocation of land and the resolution of disputes over distributed lands, or “economic” issues, were placed on delegates [vybornye] chosen from every ten tents in each aul and from every fifty tents in each volost³⁴.

The new statute granted tremendous powers to volost administrators, who were also elected Kazakh officials, chosen by volost delegates every three years³⁵. Volost administrators officially concentrated police and administrative power in their hands; they were responsible for the enforcement of laws and collection of taxes. The tremendous authority given to volost administrators made them extremely influential figures in the steppe with multiple leverages on judicial power of biys. Particularly, they were allowed to interfere significantly in the process of adjudication and appeals. For example, according to articles 149 and 155, appeals and further appeals had to be approved by volost administrator or uezd commander respectively³⁶. Additionally, the traditional role of a biy as an enforcer of his own decisions, according to Article 148 of the Statute, was passed to volost administrators³⁷. As we will see further in Chapter 2, in practice, these functions created conditions for volost administrators to interfere significantly with the judicial processes and land allocation among Kazakhs.

³² Ibid.

³³ Ibid., 28.

³⁴ Ibid., 27-28.

³⁵ Ibid., 12.

³⁶ Ibid., 21.

³⁷ Ibid.

The changes brought about with the promulgation of 1891 “Statute on Administration of Akmolinskaya, Semipalatinskaya, Semirechenskaya, Uralskaya, and Turgaiskaya oblasts” and 1898 “Provisional Rules on Adoption of Judicial Statutes in Turkestan Region and Steppe Oblasts” made little difference in the legal system governing nomads. Hence, according to the 1891 Statute, symbolically the official title of ‘biy’ and the notion of ‘court of biys’ was dropped from the legal language of the Russian Empire. Minor changes were introduced concerning the qualification to become a biy, namely the age requirements increased from twenty-five to thirty-five years³⁸. Aside from this, biys were deprived of the powers to adjudicate even more crimes, including crimes against property, crimes committed by indigeneous officials, and other more specific violations³⁹. Similarly there was little change with the implementation of the 1898 Rules. Despite the fact that these Rules finally separated judicial power from the administrative, this only applied to the Russian population of the Steppe and did not apply to Kazakhs as they were still considered ‘inorodtsy’, subject to their own courts⁴⁰.

Such a rough and deep intervention into the legal system of nomads could not pass without a trace. In fact, these changes created multiple obstacles in adjudication for Kazakhs and Russian administrators as well. Multiple sources attest that the reforms of the second half of the nineteenth century caused significant dissatisfaction with biy court decisions, Specifically, litigants complained that elections did not guarantee that the position of official biy would be filled by someone knowledgeable in Kazakh adat⁴¹. Generally, these complaints can be divided into three categories: 1) lack of knowledge of adat; 2) lack of knowledge of Islamic law; and 3)

³⁸ *Polozhenie ob upravlenii oblastei Akmolinskoi, Semipalatinskoi, Semirechenskoi, Uralskoi i Turgaiskoi* [Statute on the Administration of the Akmolinsk, Semipalatinsk, Semirechensk, Ural, and Turgai Oblasts], in *Polnoe Sobranie Zakonov Rossiiskoi Imperii. Sobranie tret'e. Tom XI. 1891* (S.-Peterburg: Kodifikatsionnyi otdel pri Gosudarstvennom sovete, 1894), 143.

³⁹ *Polozhenie ob upravlenii Turkestanskogo kraia* [Statute on the Administration of the Turkestan Region], in *Polnoe Sobranie Zakonov Rossiiskoi Imperii. Sobranie tret'e. Tom VI. 1886* (S.-Peterburg: Kodifikatsionnyi otdel pri Gosudarstvennom sovete, 1888), 335.

⁴⁰ Martin, *Law and Custom in the Steppe*, 57.

⁴¹ *Ibid.*, 99.

bias towards his fellow clansmen⁴². Obstacles to the stable functioning of this institution were also caused by inconvenience of biy gatherings, holding of which was an obligation of Russian administrators, who lacked knowledge of the seasonal character of economic activity among nomads. Thus, “uezd commander often called assemblies at times entirely inappropriate to the seasonal pasturing needs of livestock”⁴³.

If we look at the result of these nineteenth century reforms in the Kazakh steppe as a whole, it is obvious that a traditional role of a biy as a well-respected political and military leader and a judge of a clan was reduced to an adjudicator highly dependent on Russian administration and severely restricted in his jurisdiction. Four Kazakh-staffed colonial positions—the official biy, the volost administrator, the delegate, the aul elder, and the less formal role of mediator—were assigned to the biy's regular responsibilities. When combined, these roles represented the authority and influence that the traditional biy had previously held within the nomadic community. Not only these reforms undermined the traditional role but the authority biys had. This made Kazakhs turn to alternative institutions of justice, such as aul elders [aqsaqals], religious judges - mullahs and qadis, and Russian courts, which only strengthened the ruling position of the Russian Empire.

⁴² Ibid.

⁴³ Ibid., 98.

Chapter 2. Land disputes among Middle Zhuz Kazakhs

2.1. Traditional ways of resolving land disputes in the Kazakh Steppe. Good pasture lands with sufficient access to water have always been a desired resource for nomadic pastoralists. Given the rigidity of the local climate and the scarcity of good pastures, the competition for land was a part of routine among Kazakhs. To resolve disputes that arose as a result of this rivalry, Kazakhs have worked out their own ways of arbitration of land issues. These practices were incorporated into adat, which placed biys as responsible for land allocation and arbitration of disputes. Hence, of particular interest in this study are the land disputes between Kazakhs in the context of the 19th-century Russian legal-administrative reforms and the resettlement of Slavic population into the territory of the Middle Zhuz. Examination of these disputes will help to further understand the state of affairs of the institution of biys in the 19th century and their place as intermediaries between Kazakh adat and Russian colonial goals. We will see in this Chapter how these reforms changed the way the disputes were resolved and how this affected the authority of the biys.

First off, it is important to establish the ways that land disputes were resolved in the pre-reform era, i.e. the traditional mechanisms of land allocation among nomads. In this regard, elucidating are the materials on Kazakh adat published in 1871 by Lev Fedorovich Balliuzek, a Russian official who served as a Military Governor of Turgai oblast⁴⁴. According to Balliuzek, Kazakhs never possessed the land on which they grazed their herds, with exception of winter pastures [qystau], and all land was in the communal use of nomads. Hence, in the conditions of constant migration, land disputes were an inevitable part of their daily lives. To occupy a plot of

⁴⁴ L.F. Balliuzek, *Narodnye obychai imevshie, a otchasti i nyne imeiushchie, v Maloi kirgizskoi orde silu zakona* (1871), in *Materialy po kazakhskomu obychnomu pravu: Sbornik*, ed. S.V. Iushkov (Alma-Ata: Izdatel'stvo akademii nauk Kazakhskoi SSR, 1948), 212-213. ("Folk customs that had, and partially still have, the force of law in the Small Kyrgyz Horde.")

land, clans had to leave their tribal signs called *tamgas* in three possible ways: by sticking a pike, by drawing a tamga on sand or clay, or by tying knots from tall bush grass. The principle of seniority played a crucial role in land disputes: sultans, or Chingisids, would always win over kara-siueks, or Black Bone (common Kazakhs); biys would always win over common Kazakhs too, but would concede before respected elders; between two Black Bone nomads the preference would be given to a senior clan or a senior lineage within this clan; all other things being equal, the elder nomad would get to reserve the right for his clansmen to graze herds on a plot of land. In this context of subtle relations inside and outside of clans, it was of no surprise that traditionally biys, with their knowledge of adat, were in charge of negotiating and resolving land disputes between nomads in pursuit of scarce resources, such as good pastures and water.

2.2. Cossack and peasant settlement in the Kazakh Steppe. If it was usual for nomads to negotiate their rights for winter and summer pastures due to the scarcity of natural resources, it became even more difficult to do so with the resettlement of the Russian population to the newly acquired steppe territories. This process, which started in the eighteenth century, continued throughout the 19th century with illegal resettlement of peasants from mainland Russia, and received a new powerful momentum as a result of 1889 Resettlement Statute and 1906 Stolypin agrarian reform, introduced “nearly 3 million Europeans into a society of fewer than 5 million Kazakhs”; 17 million desiatins of land were granted to 500,000 Slavic families, and “20 millions desiatins of lands intended for future homesteads” were transferred to the Public Land Fund, which administered the newly annexed territories of the Empire⁴⁵. It is not hard to deduce at whose expense the lands were allocated to Russian settlers and the Fund’s assets replenished.

⁴⁵ Olcott, *The Kazakhs*, 89-90.

The pioneer settlers of the newly conquered territory of the Middle Horde were the Cossacks, who started building defense lines in the 1710s. One of the most successful expeditions to the Kazakh steppe, which brought Cossacks to the borderlands of the Russian Empire and the Middle Zhuz, was undertaken by the Russian military and statesperson Ivan Bukholtz in 1716. His “mission ... resulted in the creation of the Irtysh fortified line...; the line consisted of 11 fortresses, 33 redoubts, and 42 beacons. The first 3 fortresses - at Omsk (1717), Semipalatinsk (1718), and Ust'-Kamenogorsk (1720) - were built by the Buholtz expeditions”⁴⁶. Their main duty was to protect trade caravans, protect Kazakhs from Kalmyk invasions, and prevent the nomads from breaching the Russian borders of Siberia⁴⁷. The newcomers were granted significant land plots seized from Kazakhs. For instance, according to the “Statute on the Cossack Army of the Siberian Line”, promulgated in 1846, staff-officers were entitled to 400, chiefficers to 200, and Cossacks with no rank to 30 desiatins⁴⁸. The number of Cossacks grew larger from year to year as Russians penetrated further into the Steppe and finally reached Turkestan. After that the necessity of Cossack resettlement gradually disappeared. Nevertheless, the first half of the nineteenth century was characterized by predominantly Cossack migration into the steppe.

With the abolition of serfdom in 1861 by the tsar Alexander II, peasants from European Russia began to illegally settle in Siberia and the Kazakh Steppe in search for land plots to engage in agriculture and farming. Attracted to the fertile lands and forests, migrants settled along the Ishim River basin, in Altai region, and Semipalatinsk oblast⁴⁹. The inflow of peasants

⁴⁶ Ibid., 30.

⁴⁷ B.V. Bezsonov, “Kazaki i kazach'i zemli v Aziatskoi Rossii” (“Cossacks and Cossack Lands in the Asian Russia”), in *Aziatskaia Rossia. Tom pervyi. Liudi i poriadki za Uralom*, ed. G.V. Glinka (S.-Peterburg: Pereselencheskoe upravlenie glavnogo upravleniia zemleustroistva i zemledeliia, 1914), 369.

⁴⁸ *Polozhenie o sibirskom lineinom kazach'em voiske* (S.-Peterburg: Tipografiia departamenta voennykh poselenii, 1847), 86. (“Statute on the Siberian Linear Cossack Army.”)

⁴⁹ Martin, *Law and Custom in the Steppe*, 69.

increased with the implementation of the 1889 Resettlement Act, which legalized peasant resettlement to Akmolinsk, Semipalatinsk, and Semirech'e regions and allowed for the settlements on "free" land plots suitable for agricultural activities⁵⁰. In practice, "free land" in the steppe meant state lands that often included summer pastures of the Middle Horde Kazakh nomads, which were became a state property according to the Article 210 of the 1868 Provisional Statute⁵¹. Moreover, to satisfy the growing demand for "free" land, the 1891 Steppe Statute was passed, the Article 120 of which stated that all excess lands of nomads are confiscated for the benefit of the Ministry of State Domains⁵². Nevertheless, the Statute never defined what "excess" meant and, therefore, the Shcherbin Expedition was organized, which from 1896 to 1901 undertook seasonal surveying of lands in twelve uezds of the steppe⁵³. How much land the nomad "needed" to feed 24 heads of cattle was the only factor used to determine how much excess land nomads had; soil quality, water availability, and the unique requirements of seasonal pastures for larger herds were not taken into consideration. As a result, two million desiatinas of "excess land" had been designated in this manner by 1898, and surveyors had established 134 settlements for 113,249 peasants.⁵⁴

It was in this context of expropriation of land, restrictions to use pasture lands and crossing of volost borders, as well as the rapid increase of Slavic population, that forced Kazakhs to harshly compete for adequate resources and lands to provide for livestock. These colonial enforcements coupled with legal-administrative reforms discussed in the previous chapter have

⁵⁰ *Polozhenie o pereselenii selskikh obyvatelei i meshchan na kazennye zemli i o poriadke perechislenia lits oznachennykh soslovii, pereselivshikhsia v prezhnee vremia* [Statute on the Voluntary Resettlement of Rural Inhabitants and Burghers to State-owned Lands and on the Procedure for Listing Persons of the Aforementioned Estates Who Migrated in the Past], in *Polnoe Sobranie Zakonov Rossiiskoi Imperii. Sobranie tret'e. Tom IX. 1889* (S.-Peterburg: Kodifikatsionnyi otdel pri Gosudarstvennom sovete, 1891), 536.

⁵¹ Martin, *Law and Custom in the Steppe*, 70.

⁵² *Polozhenie o upravlenii oblastei Akmolinskoi...*, 143.

⁵³ Martin, *Law and Custom in the Steppe*, 73.

⁵⁴ *Ibid.*

irrevocably undermined the traditional ways of arbitrating land disputes in which the key role used to belong to the figure of a biy.

2.3. Land dispute cases of the second half of the 19th century. In conditions of struggle for scarce resources and colonial reforms, Kazakhs had to find ways to secure their winter and summer pastures, which often led to abuse of power and corruption, particularly by delegates, who became the puppets of volost administrators. For instance, in 1873 a Kazakh from Pavlodar uezd of Semipalatinsk oblast in the petition to the then Governor of the oblast complained about his land, where he has grazed his cattle for more than thirty years, being illegally seized by his fellow volost nomads. According to the petitioner, these wealthy Kazakhs were in close relationship with the volost administrator, who allowed them to occupy the land. He also reported that he had twice filed a petition to the uezd commander but never got any response. In addition, he also filed a petition to the Governor. The latter, in turn, passed this petition back to the volost administrator, who reported that he had conducted the delegates assembly, which decided that the land was to be passed to the intruders. Nevertheless, the petitioner stated that he or his kin folks have never been invited to this legal procedure, thus suggesting that it was upheld illegally or was not upheld at all. Moreover, to prove his right to the exclusive use of the land, he called for respected members of his community as witnesses, two of which were biys⁵⁵. Supposedly, he intentionally specified them to make his claim sound more legitimate. This implies that notwithstanding the legal restrictions and suppression from administrators that biys suffered from, they still enjoyed some level of respect and authority in the nomadic community.

Another case from a different volost of the same uezd also showcases how influential Kazakhs manipulated the system for their own benefit. In 1896, a Kazakh filed a petition to the

⁵⁵ TsGARK, f.15, op.1, d.1859, ll.311-314.

Governor against the division of the volost into two parts. The petitioner claimed that this process was initiated by the former volost administrator who wanted to regain the office. To do so, the former official, using his influence and power over the delegates, requested the latter to petition the uezd commander to separate the volost into two parts. Taking into consideration the fact that the 1868 Provisional Statute provided for the delegates to be in charge of choosing a volost administrator⁵⁶, it could be implied that the former administrator enjoyed the support of only some part of the delegates that inhabited a certain territory of the volost. Hence, what he engaged in was gerrymandering to win as many votes of the delegates as possible. According to the petitioner, if this division would take place, then this would lead to constant conflicts between neighboring auls for rights to graze livestock and the financial burden of having to support twice as many officials that would fall on the common nomads⁵⁷.

Although we do not know the outcome of these cases, a few important notes could be made regarding the ways the lands were allocated after the 1868 legal-administrative reforms. The enormous administrative, military, and legal powers and leverages given to volost administrators, led to the cases such as the above when land plots were seized and distributed to the benefit of powerful groups, who, presumably, shred kinship ties. The delegates, who were officially in charge of a just distribution of lands, were, in practice, used as a legal backup for illegal activities. Additionally, these petitions imply the ineffectiveness and bureaucratization of the colonial system. Desperate from economic hardships, nomads had to file directly to the Governor as in both cases their previous attempts to restore justice in lower instances were vain. Only after that they were able to get feedback. This demonstrates not only the corruptness of

⁵⁶ T.T.Dalaeva, "Vybornye (vyborshchiki) v kazakhskikh volostiakh (vt.pol. XIX v. - nach. XX v.): funktsii i spetsifika deiatel'nosti [Delegates in the Kazakh Volosts (second half of the 19th - beginning of the 20th centuries): Functions and Role Specifics]," *EDU.E-HISTORY.KZ* 2017, no. 4 (12): 46.

⁵⁷ TsGARK, f.15, op.1, d.2078, ll.19-23.

Kazakh officials but the level of indifference or lack of knowledge of local customs and way of life on the part of Russian administrators.

The elevation of power and status of volost administrators, as was described in these two cases, inevitably reduced the authority of official biys in resolving land disputes. This is clearly seen in the 1891 report of a Russian official to the Akmolinsk Governor regarding the land dispute that arose between Munchaktinsk volost administrator and Kazakh commoners. According to the report, volost administrator's father has secured his right to the land in claim by the 1883 resolution of six biys of Munchaktinsk volost. Nevertheless, having been presented with the resolution, the neighboring Kazakhs, that used to own the land before 1883, due to economic hardships, have committed an unauthorized seizure of land in 1890. Consequently, the volost administrator informed the uezd commander about this case, who in turn initiated the assembly of delegates to resolve the dispute. The assembly then ratified the right of usage of the land by the volost administrator's father⁵⁸. Hence, the initial resolution of the biys had no legal power de facto as Kazakh commoners have broken it. Moreover, the biys' ruling was not enough for uezd commander as he had assigned the delegates with the task of revision of the case. This indicates that official biys have lost their authority not only in the eyes of common Kazakhs but additionally lost their weight as a reliable institution in service of Russian colonial interests.

This notion that biys lost their role as an institution meant to serve colonial goals is confirmed by the following case. As a result of an arbitrary division of Seiten and Bish-Karagai volosts of Semipalatinsk uezd of Semipalatinsk oblast multiple land disputes arose between Kazakhs inhabiting these territories. As a temporary measure, some of the tracts, including Kos-Mola tract, have been allocated to the Kazakhs of Seiten volost by the then uezd commander in 1871. Later in 1874, during the demarcation between Semipalatinsk oblast and Tomsk

⁵⁸ TsGARK, f.369, op.1, d.7640, l.5.

governorate, Kos-Mola tract was given away to the Altai Mountain Agency, a transit territory with its own administration, and all Kazakhs of this tract, except biy Januzak Mamaev with tribesmen, were forcibly removed from this territory. Biy Mamaev claimed that this territory was assigned to him by the resolution of delegates dated 1871. Despite the fact that the biy was repeatedly called to move out by the uezd administration, and being independent from the power of the above-mentioned volosts, he stayed there until 1882. Moreover, Mamaev undertook multiple raids on Bish-Karagai Kazakhs. Thus, regardless of his status as a Russian official, the biy not only resisted but also caused troubles to colonial administration and his fellow Kazakhs in the struggle for scarce land resources. The title of the biy did not stop Mamaev from putting his own interests above the interests of the community as a whole⁵⁹.

Noteworthy to mention that the practical drawbacks of the 1868 Provisional Statute were observed soon after its promulgation. Under the new system, the territories of volosts, and uyezds were not clearly defined but the maximum quantity of tents was determined⁶⁰. Moreover, the rules for allocation of winter pastures were formed; they ruled that the distribution of lands should be delivered in proportion to the “amount of tents and number of cattle”⁶¹ but they never took into account the quality of pasture lands and sufficient access to water. According to the official report regarding the land-device in Akmolinsk oblast made on 19th February 1884, these changes resulted in “the clash of interests of both individuals and entire groups of the population, the resolution of which is very difficult”⁶². “Especially significant difficulties in delineating and resolving disputes over land issues are found in uyezds with flat, steppe terrain, where tracts and lands do not have noticeable natural boundaries; such uyezds include Pavlodarskiy and

⁵⁹ TsGARK, f.15, op.1, d.2052, ll.2-8.

⁶⁰ *Vremennoe polozhenie ob upravlenii v oblastiakh Uralskoi...*, 11.

⁶¹ *Ibid.*, 28.

⁶² TsGARK, f.369, op.1, d.7270, l.3.

Karkaralinskiy, where cases of delineation with the Akmolinsk oblast have been dragging on for many years”⁶³. Besides that, Russians also acknowledged that the Provisional Statute granted excessive power to the figures of volost administrator and uezd commander. Indeed, in 1884 then Governor of the Akmolinsk oblast in his annual report pointed out that despite being given a broad range of powers to allocate and divide the land properly, uezd commanders failed to do so because of lack of time and competence⁶⁴.

Hence, in this chapter we have observed how the traditional ways of land dispute resolution were replaced by the legal norms promulgated by the 1868 reforms that have completely diminished the role of the biys as arbitrators. This paramount function of land allocation and negotiation in practice belonged to Kazakh bureaucrats, namely volost administrators, who in the context of scarce land and water resources, caused by Slavic resettlement and consequential land expropriation from nomads, abused their power and were interested exclusively in promoting their own interests and of their clansmen in solving land disputes and land allocation. The less prominent officials such as delegates and biys, who *de jure* were in charge of land issues, became the puppets of volost administrators. No wonder that Abai in his word twenty-two noted: “One could also honor the biys and parish volost administrators, but they did not receive power from God. They bought it or begged for it. How can you make yourself bow your head to such people after that?”⁶⁵

⁶³ Ibid.

⁶⁴ RGIA, f.Biblioteka, g.1884, op.1, d.1, l.3.

⁶⁵ A. Kunanbaev, *Word Twenty-Two*, in *Institut volostnykh v sisteme upravlenia kazahskoi step'iu (XIX - nachalo XX vv.)*, comp. G.Sultangalieva et al. (Almaty: Qazaq universiteti, 2018), 261.

Chapter 3. Kazakh intellectuals' view on the future of the institution of biys

3.1. Official biys and “honored Kazakhs”. Despite the corruptness caused by the reforms of the 19th century, the institution of biys and the word “biy” itself remained important in the minds of common people and intellectuals. As we will see in this Chapter, besides official biys there were Kazakhs who enjoyed popular respect and authority due to their wisdom and knowledge of customs. Although they did not possess legal powers, these people, traditionally called *aksakals* (White Beard), which emphasized their age and wisdom, were called when legal institutions were ineffective in resolving disputes. Aksakals have partially taken on the traditional role of the biys, i.e. their title was synonymus to the “biy” in its pre-reform sense. Perhaps, it was for this reason that some representatives of the Kazakh intelligentsia did not stop losing hope in this institution and its revival, which was reflected in periodicals of the end of the 19th and early 20th century.

Acknowledging all the issues arising because of the tremendous powers given to volost administrators, uezd commanders, and delegates, and equally the ineffectiveness of the rules of land allocation, the colonial administration could not think of anything better than abolishing the elected positions of “ten” [desiatniki] and “fifty”[piatidesiatniki] delegates and empowering assemblies of biys and volost administrators to arbitrate disputes concerning land allocation between auls of one volost and within one aul⁶⁶, as was promulgated by the 1891 Steppe Statute. Lawmakers had hoped that a more efficient dispute settlement procedure based on adat would result from the removal of the elected position of the delegate and the transfer of land issues to the jurisdiction of the biy court, but their hopes were mistaken⁶⁷. As we have observed in

⁶⁶ *Polozhenie ob upravlenii oblasti Akmolinskoi...*, 144.

⁶⁷ Martin, *Law and Custom in the Steppe*, 118.

Chapter 1, legal restrictions imposed on biys made this institution highly susceptible to corruption and dependent on administrative authorities.

A valuable critique of the 1890s reforms was written in the 1913 article “Neobkhodimost’ peresmotra Stepnogo Polozhenia” by the Russian official and journalist Gennadii Chirkin, who noted that “The entire steppe, which makes up the public use of the Kirghiz [Kazakh], is now dotted with resettlement sites... The nomadic life of the Kyrgyz [Kazakh] in many areas of the Kyrgyz [Kazakh] steppe has faded into the realm of memories. Land has been redistributed between individual volosts and villages more than once recently... Just one cursory glance at the modern map of the inhabited parts of the Kyrgyz steppe is enough to see that the grounds for the article of the current Steppe Statute have more historical significance in the field of land relations than they are the norms of current law”⁶⁸. Although Chirkin mistakenly insisted that the nomadic pastoralism in the Steppe lost its past significance, and therefore it was necessary to change the law according to the modern socio-economic conditions, he was certainly right that the laws in the Kazakh Steppe did not work the way they were designed to work.

Nevertheless, evidence shows that there were individuals in the steppe that enjoyed high respect and were called upon when solving disputes that otherwise would remain unresolved. These were the aksakals - wise and respected elders, who knew the customs of adat and were the true leaders of their clans. Whether it was simple advice, assistance, or arbitration of disputes, Kazakh litigants preferred to turn to aqsaqs for two reasons. First, they did so due to an economic reason: biylik, a fee paid to the official biy for mediation, could be avoided when appealing to an aqsaqal. Second, as we have observed in the previous chapters, all of the

⁶⁸ G.F. Chirkin, “Neobkhodimost’ peresmotra Stepnogo polozheniia” (“The Need to Revise the Steppe Statute”), *Voprosy kolonizatsii*, no. 12 (1913), ed. G.F. Chirkin and N.A. Gavrilov: 66.

injustices associated with official biys' adjudication repelled nomads from this institution⁶⁹. If we compare the role that biys played before the Russian colonization, it is clear that aksakals now partially fulfilled their traditional duties. Indeed, as Chirkin pointed out that despite the legal-administrative reforms, the real power in Kazakh communities belonged to aqsaqals, who act as supreme leaders of the community and the arbiters of all affairs of the community. He also noted that because of this position in the community the Russian administration was not able to ignore them⁷⁰.

Russians recognized this high status of aksakals and reflected this knowledge in the Article 142 of the 1868 Provisional Statute, which stated that "The litigants may, by mutual agreement, turn to other persons whom they trust in order to hear out their cases; in this case, the decision of the elected persons, as having the character of an arbitration court, is final for any amount of claim"⁷¹. In other words, colonial lawmakers have officially recognized this "court of arbitration" but did not specify their functions or status in the hierarchy of legal institutions available to Kazakhs. In multiple court cases, including land disputes between Kazakhs, we can observe that aqsaqals took an active part in resolving them. For instance, in one dispute regarding livestock breeding rights among nomads of Karkalinsk uezd of Akmolinsk oblast, the signatures of "honored Kirgizs [Kazakhs]" could be found in a resolutionary part of the case⁷². This suggests that these "honored Kazakhs" on par with aul elders and official biys were involved in final decision making.

In other cases the so-called *zhurt-adami*, or influential heads of individual clans, were involved. They acted as authoritative individuals capable of persuading official biys in making

⁶⁹ Martin, *Law and Custom in the Steppe*, 105.

⁷⁰ Chirkin, "Neobkhodimost' peresmotra", 70.

⁷¹ *Vremennoe polozhenie ob upravlenii v oblastiakh Uralskoi...*, 20.

⁷² TsGARK, f.369, op.1, d.4890. l.14.

fair decisions, specifically when one of the litigants was rich and powerful and the other did not possess enough influence or did not belong to a stronger clan, lineage, or family. In the system, where advocates were not provided for, zhurt-adami acted as unofficial counselors or attorneys⁷³.

Sometimes the role of *töbebasi* or *töbe biy*, “töbe” meaning head or chair, who was designated as the chairman to oversee a specific legal assembly, more explicitly acknowledged the significant mediating role of unofficial judicial authorities and esteemed clan leaders. These Kazakhs had the power to supervise both the actual hearing of cases and the creation of rules for their resolution at that assembly when they selected a tobebasi who was well-liked by all parties⁷⁴. As the 1891 Steppe Statute declared, “Biys at assemblies choose a chairman [predsedatel'] who leads investigations”⁷⁵, it was legally acknowledged that assemblies worked best to settle the conflicts brought before them when a tobebasi was appointed. Unfortunately, all too frequently, rival parties prevented a choice of a tobebasi was made, and resolved their disputes without the intervention of the former.

3.2. Debates among Kazakh intellectuals on the adat and shariah legal systems. At the end of the nineteenth and beginning of the twentieth century, representatives of the Kazakh intelligentsia for the first time began to talk about the future fate of the institution of biys. In their understanding, this institution could no longer function according to the laws introduced as a result of the administrative and legal reforms carried out in the second half of the nineteenth century, which we discussed in previous chapters. The main reason for their dissatisfaction with the Kazakh judicial system was the process of electing biy, aul starshinas, volost administrators and delegates, which, according to the intelligentsia, attracted only that part of society which had

⁷³ “Erezhe” (“Rules”), *Kirgizskaia stepnaia gazeta*, May 2, 1899.

⁷⁴ Martin, *Law and Custom in the Steppe*, 111-112.

⁷⁵ *Polozhenie ob upravlenii oblastei Akmolinskoi...*, 142.

the desire and resources to consolidate in power for the purpose of personal enrichment and promotion of clan interests. In other words, the election of Kazakh officials in the service of the Russian Empire generated corruption and inter-tribal squabbles, which did nothing to improve the economic, domestic and legal relations of the underprivileged part of the population. Despite the unity on the issue of the defectiveness of Kazakh justice, part of the intelligentsia, in particular the figures of the newspaper “Kazakh”, who later became the founders of the party, the movement, and the autonomous government of the same name “Alash”, advocated the preservation of the norms of the adat and the revival of the institution of biys in a new, revised form. Another part of the intelligentsia, mostly consisting of the leaders of the “Aikap” journal, advocated the rejection of the norms of adat and the widespread adoption of Sharia norms by Kazakhs. All these disagreements were reflected in the print battles on the pages of the “Kazakh” , “Aikap” and other publications, the analysis of which will be devoted to this part of this chapter.

One of the first in the Kazakh enlightened environment who publicly spoke about the problems of justice in the steppe was the editor of the newspaper “Dala Ualayaty”, or the “Kirgizskaia stepnaia gazeta” in Russian, Dinmukhammad Sultangazin (1867-1918). Despite the fact that the newspaper was the official printing organ of the Empire, Sultangazin noted that it was the reforms of the mid-nineteenth century that caused significant damage to the traditional justice system of the Kazakhs. According to the publicist, the traditional biy court was distinguished by the principles of democracy, openness and correlated with the nomadic way of life of the Kazakhs. In particular, he noted that the former biys did not receive their title as the

result of elections, but deserved it with their knowledge of the law, their orator skills and popular respect; thus, Sultangazin emphasized the shortcomings of the elected biys⁷⁶.

Similar ideas were expressed on the pages of “Aikap” and “Kazakh” by the publicist Raimzhan Marsekov (1879-1937), who criticized the principle of election, which led to the fact that the people who held this post did not correspond to this title. Moreover, according to Marsekov, this led to hostility between the Kazakhs and to a heavy financial burden associated with the maintenance of biys. According to his estimates, the election process and the maintenance of officials in the steppe cost the Kazakhs of one volost 6,000 rubles a year, which was an unaffordable amount for ordinary pastoralists due to their low incomes. Like Sultangazin, Marsekov emphasized that election gave way to injustice, extortion and infringement of human rights, which was never inherent in the traditional biy court⁷⁷.

Concerns about this state of affairs in the steppe were also expressed by tsarist officials, who could not ignore the lawlessness and corruption caused by the introduction of the principle of electivity for Kazakh officials. Moreover, in the political and intellectual circles of the Russian Empire, the question of the transition of the steppe peoples to the general imperial administrative and legal system was increasingly raised. Hence, in 1912, a message was published in which it was said about the preparation of a new draft law, according to which peasant statute was to be introduced in the Kazakh territories, and the biy court was replaced by the peasant volost court, that consisted of judges elected from the peasant community. This meant the abolition of the institution of biys and the transition of the Kazakh legal system to an all-imperial order. In this regard, a controversy regarding the people's court began on the pages of print media among representatives of the Kazakh intelligentsia.

⁷⁶ “Vlast’ kazakhov v prezhnie vremena” (“The Power of the Kazakhs in Old Days”), *Kirgizskaia stepnaia gazeta*, no. 51, 1888.

⁷⁷ “Sailau i ego vrednye posledstviia” (“Election and Its Harmful Effects”), *Kirgizskaia stepnaia gazeta*, November 28, 1899.

One of those who opposed the expansion of the powers of the Russian court and the introduction of Sharia law was the politician and leader of the Alash party, the ideological inspirer of the Kazakh newspaper Alikhan Bukeikhanov (1866-1937). Bukeikhanov expressed several arguments in defense of the biy court. Firstly, according to the activist, the maintenance of a Russian judge was too expensive for the Kazakhs: given that one Kazakh volost consists of about 1,000 yurts, it turns out that at the rate of 10 judges per volost, it would take at least 3,000 rubles per year to maintain each of them. Each yurt would have to be charged 30 rubles, which would be very difficult for the steppe people. Bukeikhanov emphasized that legal proceedings would be complicated by the fact that Russian judges did not speak Kazakh, and Kazakh litigants did not speak Russian. Bukeikhanov also took the idea of introducing Sharia law critically. In his opinion, Sharia has never occupied a dominant role in the legal and cultural life of Kazakhs. “Sharia is as hard as a stone and never changes and does not correspond to the realities of Kazakh life,” Bukeikhanov noted⁷⁸.

It is worth noting that even among the colleagues of the newspaper “Kazakh” there were those who did not share Bukeikhanov's point of view. For example, the famous philosopher, poet and publicist Shakarim Kudaiberdiev (1858-1931) believed that the introduction of Sharia law would be a positive change for Kazakh justice. Kudaiberdiev attributed the “rigidity” of sharia to the low level of religious education among the mullahs, who, having shallow knowledge, could not properly convey the legal and moral norms of Islam to the people⁷⁹.

The final split of the Kazakh intelligentsia on the issue of reforming the judicial system occurred at the 4th All-Russian Muslim Congress, held in 1914 in St. Petersburg. On the issue of Muslim courts, Bukeikhanov adhered to his previously stated positions. However, this caused

⁷⁸ “Taghy da bi hām bilik” (And Again On the Biy and Power”), *Kazakh*, February 14, 1914.

⁷⁹ “Bi hām bilik” (“On the Biy and Power”), *Kazakh*, June 8, 1914.

dissatisfaction among other delegates, most of whom represented the Aikap magazine: B. Karataev, S. Lapin, J. Seidalin and others believed that the time of biys and adat was irrevocably gone. They associated the biy court, as it existed at the beginning of the 20th century, exclusively with lawlessness and colonial oppression and, accordingly, insisted on rejecting the adat and adopting Muslim legal principles⁸⁰.

Bukeikhanov's main counterpart in this matter was the publicist and deputy Bakhytzhan Karataev (1869-1934), who believed that the introduction of Provisional Statutes led to widespread corruption among Kazakh officials. In this regard, according to Karataev, the institutions of customary law ceased to have any significance and had to be replaced by Sharia norms⁸¹.

Despite the fact that Kazakh intellectuals were not unified in the question of reforming the institution of biys, it is important to note that with the closure of “Aikap” journal by the Russian administration in 1915, the voices of the supporters of the revival of biys became stronger. For nationalists, such as Alikhan Bukeikhanov, biys were a part of national identity, a symbol of independent and unique state of Kazakhs⁸². Moreover, no matter which side the representatives of the Kazakh intelligentsia took, their concerns about the institution of biys support my findings about its decline. By the early 20th century the institution of biys reached the peak of its destruction, and did not serve the interests of neither Kazakhs nor colonialism. Therefore, intellectuals began to suggest their own plans of reforming this institution.

⁸⁰ “Itogi sovetov kazakhov po religiozno-pravovomu i zemel’nomu voprosu” (“Results of the Kazakh Councils on Religious, Legal and Land Issues”), *Aikap*, no. 14, 1914.

⁸¹ Ibid.

⁸² S.Z. Zimanov, *Kazakhskii sud biev - unikal’naia sudebnaia sistema* (Almaty: Atamura, 2008), 153.

3.3. Plans on reforming the institution of biys and the Soviet period. Unfortunately, we will never know whose positions - the supporters of adat or sharia - turned out to be stronger, since their confrontation ended with the Bolsheviks coming to power in October 1917. However, we can judge how representatives of the Kazakh intelligentsia imagined the future of the Biy court if this legal institution had continued to exist.

For example, the future of the institution of biys was reflected in the “Charter of the Country of Kazakhs”, the first project of the democratic constitution developed by the jurist and public figure Barlybek Syrtanov (1866-1914). This project provided for the independence of the Kazakh state and the republican state system. One of the important elements of the effective work of justice, in his opinion, was the principle of independence. In particular, Syrtanov wrote: “Judges should be independent of the government when resolving disputes, and the law and judicial regulations should be the main condition for the operation of law. Pressure on judges is prohibited”⁸³. This principle ran counter to the current legislation of the Russian Empire, according to which judicial power in the steppe was in practice largely dependent on administrative power, which, as we found out earlier, led to corruption and lawlessness. The charter of Syrtanov also provided for the independence of courts from political parties: “There should be no parties at the court site. A judge cannot be a member of a political party. Biy, who has secretly become a member of the party, loses his seat”⁸⁴. Moreover, Syrtanov proposed to introduce a jury trial to consider serious criminal offenses, as well as to legitimize judicial precedent as a traditional norm of Kazakh law⁸⁵. Thus, Syrtanov was a proponent of case law or common law, which is practiced in many modern English-speaking countries.

⁸³ Barlybek Syrtanov, “Ustav strany kazakhov” (“Charter of the Country of Kazakhs”), in *Barlybek Syrtanov: òmīrī men mūrasy*, ed. M. Zholdasbekov (Almaty: Kazakhstan, 1996), 127.

⁸⁴ *Ibid.*, 128.

⁸⁵ *Ibid.*

Raimzhan Marsekov, on the contrary, believed that the only possible solution to purge Kazakh justice from lawlessness was the introduction of legal codes: “It is obvious that this state of affairs is unthinkable further, and the court needs a code to guide its decisions, without it the court cannot properly perform its functions.”⁸⁶ It is also interesting that when drafting the codes, Marsekov proposed to remove Russian officials, but at the same time involve acting judges: “... It is necessary that both talented biys and those who are reputed to be experts in legal customs and generally intelligent people take part in this work.”⁸⁷ This statement shows that, in Marsekov's opinion, both official biys and the unofficial ones recognized by the people deserved respect.

Despite all the criticism of the biy court, it is interesting that some representatives of the Kazakh intelligentsia advocated the preservation of electoral bases for biy as a temporary measure. Thus, according to the protocol of the Turgai regional Kyrgyz Congress, held in Orenburg in April 1917, the delegates decided that until the introduction of fundamental reforms, “the people's courts remain and operate on the same grounds.”⁸⁸ However, the delegates stipulated that those current judges had to be re-elected if they did not enjoy the confidence of the population. Exactly how the public's distrust was supposed to be expressed is not specified in the document⁸⁹.

The judicial issue was also covered in the political program of the Alash party, which defined the limits of the jurisdiction of the courts and the time frame for the consideration of cases. Thus, according to Article 3 of this program, “a court cannot arrest and convict without charge and interrogation; all local cases must be considered within 24 hours. In cases where there

⁸⁶ “Kirgizskii narodnyi sud” (“Kirgiz people’s court”), *Kirgizskaia stepnaia gazeta*, January 2, 1900.

⁸⁷ Ibid.

⁸⁸ “Protokol turgaiskogo oblastnogo kirgizskogo s’ezda v gor. Orenburge 2-8 apreliia 1917 goda” (“Minutes of the Turgai Oblast Kirgiz Assembly in Orenburg City Dated April 2-8, 1917”), in *Alash Orda*, ed. N. Martynenko (Alma-Ata: Aikap, 1992), 29.

⁸⁹ Ibid.

is no court at the crime scene, the latter is given the right to make its decisions on the accused in one week.”⁹⁰ Also, this program established secularism, that is, the separation of religion from the state, as well as the principle of conformity of the court with national customs⁹¹. Thus, Bukeikhanov's position, as the main figure of the Alash party, was once again emphasized on the dominant role of Adat and the failure of the idea of introducing Sharia courts.

It is also worth noting that during the Civil War, the leaders of the White Movement, led by Admiral Kolchak, recognizing the importance of the biy court, in 1919, with the help of Alash-Orda representatives, developed a Regulation on the Kazakh court, which raised the status of traditional law in the steppe⁹². After almost 100 years since the introduction of Speranskii reforms, Kolchak returned the Kazakh court the right to consider both criminal and civil cases, and knowledge of the Kazakh language became one of the main criteria in the selection of judges⁹³. Nevertheless, these reforms were not long standing as the White Movement led by Kolchak lost the struggle for power in Russia.

With the establishment of Soviet power in Kazakhstan, the Bolsheviks' attitude towards biys and adat changed from loyal to hostile. As a result, “by the end of the 1920s, the Aksakal courts [biy courts] as arbitration bodies were finally liquidated.”⁹⁴ Thus, this ancient institution ceased to exist as a significant cultural and legal source. And yet, as my analysis showed, even in its most decadent state, it did not cease to play an important role in the life of Kazakhs. Although there were activists who supported the abolition, multiple representatives of the Kazakh

⁹⁰ Ibid., 89.

⁹¹ Ibid.

⁹² D.A.Amanzholova, “Natsional’naia politika Kolchaka A.V. (1918-1919) [National Policy of A.V.Kolchak (1918-1919)],” in *Magistra Vitae. Istorii i arkheologii* 7, no. 1 (1994): 22-23.

⁹³ Zh.S. Mazhitova, “Polemika vokrug suda biev sredi predstavitelei kazakhskoi intelligentsii nachala XX v. (sravnitel’no-istoricheskii analiz) [Debates Surrounding the Biy Court Among Representatives of the Kazakh Intelligentsia of the Early 20th Century (comparative historical analysis)],” *Gumanitarnyi vektor. Serii: Istorii, politologii* 39, no. 3 (2014): 6.

⁹⁴ Zh.S. Mazhitova, “Institut biev v kazakhskom obshchestve v pervoe desiatiletie sovetskoi vlasti [The Institution of Biys in the Kazakh Society in the First Decade of the Soviet Power],” *Vestnik moskovskogo universiteta. Serii 8. Istorii*, no. 4 (2015): 11.

intellectuals advocated for the preservation and reformation of the institution of biys. It is hard to claim why exactly they supported this institution, but perhaps this was partially attributed to the fact that there were people in the steppe, who enjoyed respect and authority and embodied the order and cultural traditions once inherent to the institution of biys.

Conclusion

Summing up, it is fair to say that the main reason for the decline of this institution was the administrative and legal reforms. Once a unique and distinctive institution with broad administrative and judicial powers, it underwent significant changes and turned into a shadow of itself in the nineteenth century. The loss of independence and authority, reliance on the volost administration, and the loss of traditional legitimacy have led to biys ceasing to be an effective dispute resolution tool. Nevertheless, it should be noted that even despite the general decline, there still remained the individuals who enjoyed respect and trust among the people when resolving disputes. Moreover, the importance of biys for Kazakhs was confirmed by the statements of some of the representatives of the Kazakh intelligentsia, who fought for its preservation. All these circumstances point to the viability of the legal tradition of adat and its ability to adapt even under colonial pressure.

In the first chapter I conducted a historical and legal analysis of the institution of biys in the pre-colonial period, when it existed as an independent and authoritative instrument for dispute resolution, expression of popular will, and regulation of public life on the basis of adat. Within this framework, the biy had full political and judicial power. The power of biys was based on popular recognition of their leadership qualities and knowledge of national customs. A significant part of this chapter was also devoted to the analysis of administrative and legal reforms, especially those of the second half of the nineteenth century, as a result of which biys lost their former authority and were significantly limited in their powers. They became subordinate to the volost and county administrations and their decisions could be appealed or ignored. The key change in this regard has been the system for assigning biys. Unlike the traditional system, the colonial system assumed the election of Kazakh officials in the service of

the Russian Empire, which led to widespread corruption: representatives of influential clans who had the financial and administrative resources to gain power mainly participated in the struggle for office. The winners of the elections of volost governors used their official powers to manipulate the institution of biys in order to extract their own benefits and promote clan interests. This change significantly undermined the nomads' trust in the institution and caused its further decline as an independent and influential structure.

To follow these changes in practice, the second chapter examined the mechanisms for resolving land disputes between Kazakhs in the pre-colonial and colonial periods. The struggle of Kazakhs for land resources escalated with the resettlement of the Slavic population to the territory of Kazakhstan. At the same time, the traditional arbitration system, in which the figure of biy played a significant role, lost its relevance. Through the analysis of archival materials on land disputes taken from the CSARK, I tried to trace how administrative reforms affected the powers of biys to resolve land disputes in the context of the intensified struggle for land and water resources. An analysis of these cases showed that despite the fact that *de jure* biys partially retained the functions of resolving certain categories of land disputes, the *de facto* process of land allocation and arbitration was handled by volost administrators who received excessively broad powers and actively abused them. In these conditions, biys turned into puppets in the hands of the volost authorities and lost their former importance, gradually becoming an instrument of the bureaucratic hierarchy.

The third chapter was devoted to the assessment of the perception of the institution of biys by representatives of the Kazakh intelligentsia of the late nineteenth and early twentieth centuries. A controversy has unfolded on the pages of print media about the need to reform the judicial system in Kazakhstan. Opinions were divided into two camps: one group, mainly

representatives of the “Aikap” journal, viewed the institution as a relic of the past, a corrupt structure that no longer served the fair resolution of disputes, and turned into a colonial enforcement mechanism; this group advocated the widespread adoption of sharia law by Kazakhs; others, mostly representatives of the “Kazakh” newspaper and most of all Alikhan Bukeikhanov, saw biys as guardians of national identity and legal tradition, which were corrupted by the colonial system. Despite the differences of opinion, many intellectuals agreed that the institution of biys, even in its most decadent state, had an important symbolic significance. This perception persisted partly due to the fact that there were still unofficial institutions of aksakals in the steppe, who essentially replaced the traditional biy, but who did not have much authority within the framework of the colonial legal system. Thus, the institution of biys became a symbol of historical memory, reminding that there were times when power and justice did not come from outside, but from within the people themselves.

Despite the depth of the analysis, this study has a number of serious limitations. One of the significant drawbacks of this work is the limited data on the adat and the institution of biys in the precolonial period. Almost all the existing information about the history of this institute was recorded by tsarist officials from the words of the Kazakhs no earlier than the eighteenth century. This creates the risk of distorting or simplifying our understanding of the structure and functions of the biys in the “original”, intact form. In addition, due to time and organizational constraints, it was not possible to collect a larger amount of archival data both in the CSARK and other archives, which would allow a more complete study of the dynamics of the decline of this institution. For example, the available archival materials relate to land disputes that took place in the 1880-90s, while the period immediately after the introduction of the 1868 Provisional State is not covered. In this study, I also failed to answer several important questions, namely: was the

decline of the institution a deliberate and purposeful policy of tsarism, or was it an unforeseen side effect? How strongly were the legal norms of Sharia and Adat intertwined? Which of the legal systems had a greater impact on the life of Kazakhs? To answer these questions, it is necessary to make a comparative historical analysis that goes beyond the scope of this project.

These shortcomings open up significant prospects for further scholarly research in the field of the institution of biys and adat in the colonial period. In the future, special attention should be paid to judicial practice not only in the field of land disputes, but also marriage, divorce and inheritance issues, which could shed light on the institution of biys from a new perspective. Moreover, it would be interesting to study the attitude of Kazakhs themselves to the changes in traditional justice, as well as the legal consciousness of the population within the framework of legal pluralism. Of particular interest is the analysis of the attitude of Kazakh intellectuals to administrative and legal reforms and their consequences. In this regard, the works of Abai Kunanbaev, Ybybray Altynsarin, Mirzhakyp Dulatov, Alikhan Bukeikhanov and others would be useful for studying. Equally important may be the study of the biographies of individual biys-aksakals, who managed to maintain their authority and influence on social processes even after the reforms. This would help establish how viable and stable the traditional justice system was.

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