

BIYS' COURT IN THE WORLD CIVILIZATION

Kayrat MAMI,

Chairman of the Supreme Court of
the Republic of Kazakhstan;

Doctor of law; Professor.

During his speech last August, held at the foothills of the sacred mountain Ulytau, our first President, Head of State, Nursultan Nazarbayev noted, “We are the country which has been developing and studying its history in a new way. The Kazakhs’ history is highly eventful. Our state system and our roots have originated from the Huns. An epoch of Kok Turks ensued the epoch of Huns. Subsequently the Golden Horde was founded. Later on the Khanate era had set in; it gradually lead to our independence. We have such a great history, which the youth ought to be aware of. The history of our country goes back father than a day before.”

The Leader of our Nation initiated celebration of the Kazakh khanate’s 550 anniversary, marked by various events, which has provided an impetus for social conscience. In view of the aforesaid, we, representatives of the legal community, decided to bring up a subject of such aspects of the judiciary, as its place in society of the past and the present; its significance, purpose and objectives.

“All words have common root; main ancestor is Mayky biy”, Kazakh people have preserved these words in their memory, which goes to prove that nomadic civilization goes back to ancient times, that is the lifetime of Mayky biy. For the first time etymology of the word “biy” was brought to notice by great scientist Shokan Ualikhanov, who noted that the root of the word originated from ancient Turkic words “bey” and “bek”; their translation means “court”.

Existence of seven various statutory provisions was mentioned in “Jami al-tawarikh”, the valuable work by famous historian Rashid Al-Din, who researched into genealogy of the Mongol Empire.

The given provisions specified personal value, marriage and widowhood, division and possession of lands; thievery, horse-stealing, disputes, and value of livestock. We can not doubt the fact that those provisions were applied in the process of governing people in Kazakh khanate, since during Myky biy’s lifetime Kazakh tribes represented the basis of Genghis Khan’s khanate.

Legal acts, a part of the historical heritage, which had been left by khans, were applied in the periods of Buryndyk’s, Kasym’s, Tahir’s, Khaknazar’s, Shygay’s, Tauyekel’s, Yesim’s, and Zhangir’s rule, and further developed under Tauke khan in “Jety Zhargy” laws.

Such legal acts as “Kasym khan’s bright path” and “Yesim khan’s primary path” had been of utmost significance during Yesim khan’s and Kasym Khan’s reign.

Kasym khan’s epoch saw multiple changes in such spheres as domestic and foreign policy of the khanate; records management of law courts; people’s customs and traditions; and ancient procedures.

While comparing these legal principles with present-day Penal and Civil Code of our state, one reaches to a conclusion that they are quite similar. Such legal principle as, “If there is a khan, there should be a worthy law...” was introduced into use in administration, politics, army, and judiciary at the time of Yesim khan’s rule.

Over the period of Tauke Khan’s reign, the work “Yesim khan’s primary path” assumed national importance; it had not lost its significance in the capacity of the legal document until the moment of “Jety Zhargy” emergence, which would be given the status of the Constitution of the Great Steppe.

In his lifetime Tauke was a famous statesman; conspicuous military commander; reformer of the traditional legal system; diplomat, and strategist, who did not spare himself in order to preserve national unity and integrity of his land.

Such institution as Biys' council was introduced during the period of his rule. Aside from possessing extensive rights within the political system of Kazakh khanate, it played an important role in the process of domestic and foreign policy conduction.

Biys' council put forth much effort in order to settle disputes among tribes. The council was comprised of those who received blessing from wise elders, i.e. orators, authoritative figures, and heroes who had distinguished themselves in various battles, well-known all over the region.

Biys' council was held at such places as Bitobe and Martobe, located in Turkestan and Sayram along the Syrdarya River.

Such major problems of the time as legal provisions of the governing system, capable of following liberal domestic policy; and troops, capable of repulsing external threat and mobilizing the people, got reflected in "Jety Zhargy".

Constitution of the Republic of Kazakhstan, adopted in 1995, whose 20th anniversary has been recently celebrated, which gained universal support of all Kazakhstani people at the national referendum, has turned into our guiding star.

Having relied upon the Constitution, our first President managed to lead the country out of a deadlock in the period of the severe political and economic crisis, choose the right path, and guide our independent country along the path of development and prosperity.

Today our happy and united nation led by Nursultan Nazarbayev has found its place among 50 competitive countries of the world. At present our great purpose is to enter the list of thirty highly developed countries of the world and turn into “Mangilik El”.

The Head of State placed ensuring of the supremacy of law and modernization of the system of elective judiciary, as well as accelerated development in the immediate future, among main priorities.

Thus, even greater responsibility has been placed on the judicial system and judges. That is why, we believe that institutional reform “Ensuring of the supremacy of law” reflected in the National programme “100 concrete steps” has become our “Road map” of the national judicial system’s development. We have been inspired by the example of our great biys, who had striven for integrity of the state system.

Our and our descendants’ great purpose is to properly carry on our ancestors’ undertakings, strengthening independence in the process; and preserve people’s unity, which has been the point of our first President’s speeches more than once.

The Kazakh khanate’s 550th anniversary has become another stage on the path of the great nation!

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