

Zhesir dauy (жесір дауы ‘widow debate’), or Debates Related to Women in Kazakh Rhetoric*

Mukusheva Raushangul

The peculiar genre of the oral tradition of the Kazakh people, the art of Kazakh rhetoric (*шешендік өнер*), is known by only few in the West. The nature of this genre in Kazakh oral tradition is similar to the notion of European rhetoric, but it has a plenty of unique features because this literary phenomenon was born among a people whose way of life differed considerably from that of the West and represents another language and culture.

With the demise of the Kazakh Khanate (at the end of the 18th century) the Kazakh people gradually lost some of their important customs and traditions, which were characteristic of old Kazakh society. The rules and laws that had been operating flawlessly in the system of the khanate, started to change – from the civil administration to the administration of justice. Kazakh tribal laws, in most cases, were transmitted and survived via oral tradition. The system of regulations laid down by the law called the ‘Seven decrees’ (*Zheti zhargy*) that was established during the rule of Tauke Khan (1678–1718) remained an authoritative source in jurisdiction in later centuries. The collection and publication of tribal laws began in the 19th century¹ – in this paper those publications will also be referred to. Albeit those laws were far not as strict as they had been in the times of the Kazakh Khanate or compared to the rules of the ‘Seven Decrees’.

Kazakh *zhyraus*² and *bis* propagated and glorified the greatness of the just and unified Kazakh Khanate. Some of *zhyraus* played the role of *bis*, since some of them were advisers to the khans and solved disputes, for example, Asan Kajgy *zhyrau*, Buhar *zhyrau* and Zhiembet *zhyrau*, the last one will be discussed later in concern

* During the classes of the course, Cultural History of the Eastern Peoples, which I was honoured to teach with Dr. Éva Kincses-Nagy, I noticed that one of her favourite topics, was the customs of Turkic peoples regarding women and marriage. She shared her immense knowledge of this field with the audience and that is why I have chosen this topic.

1 *Қазақ әдет-ғұрып құқығының материалдары*. ред Кенжалиев З, Дәулетов С, Андабеков Ш, Әділбаев М, Тоғжанов Е. Алматы. *Жеті жарғы* 1996. (Materials on Kazakh customary law)

2 The word *zhyrau* (*жырау*) derives from the word *zhyr* (*жыр*) meaning ‘song, chant’. Its meaning is ‘bard’. It is still known as an archaic word by the Bashkir (*жырлаусы*, ‘bard’) and Karakalpak (*жырау* ‘bard’). (Mukusheva 2017: 294)

with a lawsuit on a widow dispute. The Kazakh *bis*³ (plural form of *bi*) made decisions concerning debates and lawsuits arising among the people, who meted out justice on the steppe where there were no prisons.

1. Disputes or lawsuits (*ḍay*)

This genre showcases how Kazakh society functioned and what kind of disputes they had. Most of the disputes originated from the people's nomadic way of life, and the primary cause of them was land, pasture or accommodation (the nomads had summer, winter and autumn accommodations), but wells also led to many debates, since the tribes demarcated their borders with wells too. They sued because of animal theft (*барымта* [*barımta*]⁴), but also due to assuming responsibility for injury or death during skirmishes among the tribes or in wars. The judges endeavoured to make decisions so that the tribes would not become enemies, and the unity of the Kazakhs would not come undone. They passed very strict sentences, for example, for acts against the honour of women and they severely punished those who abducted a bride betrothed to another man. They condemned love affairs among the members of the tribe, and marriage within the same tribe was forbidden for seven generations. [...] The debates (*dau*) were named according to the issue at hand as follows:

Zher dauy (*жер дауы*) – debates concerning landed property,

zhesir dauy (*жесір дауы*) – disputes concerning widows and every kind of abduction of women, as well as disputes with regard to the defamation of women,

mal dauy (*мал дауы*) – debates due to animals or property,

khun dauy (*құн дауы*) – disputes regarding the price of a dead man, *ar dauy* (*ар дауы*) – disputes due to honour.

As a matter of fact, all disputes were for honour. According to a Kazakh proverb: “My wealth is the sacrifice of my soul, whereas my soul is the sacrifice of my honour.” (*Malım – žanimniñ sadagasi, žanim – arimnyñ sadagasi*). (Mukusheva 2013: 135–137)

1.1. The status of women and the *zhesir dauy* (*жесір дауы*), widow dispute in nomadic Kazakh society

Next to the most important debate of landed property, the second most frequent dispute was the *zhesir dauy*, namely the debate that emerged on account of women. Concerning the latter, the nomadic people paid attention to the fate of women. If one

3 When a debate emerges in a tribe or among tribes, the *aksakals* turned to the *bis*, that is, the judges. The *bis* presided over the observance of tribal rules (every tribe had their own rules) and unwritten laws. They also headed negotiations, adjudicated, decided on the severity of sins and the method of punishment. In other words, they were simultaneously policemen, lawyers, and judges. (Mukusheva 2013: 132)

4 *Барымта* (*barımta*) in Kazakh, in Hungarian it is known as *baranta*, Turkic loanword. „Барымта 3. Long ago when one of the quarreling parties did not agree with the decision of the judge or the guilty party did not comply with the court's decision then the opposing side would steal horses from them.” <https://sozdikqor.kz/search?q=барымта>

looks at these laws, then it can be seen that these laws have become increasingly stricter with the ever-strengthening Islamic faith. However, it is also clear that they did not allow a woman to be hurt or beaten. They protected women irrespective of their age or social status (young girl or adult girl,⁵ orphaned girl, unmarried or married woman, woman with child or childless, barren, divorced, or widowed).

Kazakh women were pampered and excessively looked after when they were children. The use of the word girl (*қыз*) was not acceptable in the case of little girls; instead, they used *ükilim* (*үкілім* ‘my owl-feathered one’),⁶ *šašbaulym* (*шашибаулым* ‘my hair-decorated one’), *syrğalym* (*сырғалым* ‘my earring-bearing one’) and other metonyms. Kazakh women, as it is characteristic of Kipchak tribes, did not hide their faces. Women could ride a horse quite well, and they even participated in horse games. However, it is also true that the customary education of contemporary people set up forty strict rules⁷ to limit this liberty. The relatively free life of young girls outlined above lasted until their engagement, usually by the age of 15 or 16. When they got married the number of their responsibilities increased; in my opinion, this was not only a characteristic of nomadic society but also of sedentary societies. In Europe works on the status of women in European societies started to appear by the mid-19th century. I find the opinions and reflections of European travellers, especially that of the Hungarian ethnographers who travelled to Central Asia, and particularly how they evaluated the situation of Kazakh women when they visited the Kazakh lands, quite interesting. In her book entitled *Újfalvi Károly utazása Párizstól Szamarkandig* [Károly Újfalvi’s Journey from Paris to Samarkand], Mária Újfalvi-Bourdon describes the life of the Kazakhs and writes the following in regard to Kazakh women: “Women perform every duty of the nomadic Kyrgyz people.⁸ Even the horses are left to their care. Men lead an entirely idle life. For them this is the secret of the household’s balance. Besides, such a division of labour makes it so no altercation is possible. The entirety of rights is assumed by men, while the entirety of duties by women.” (Újfalvi-Bourdon 1885: 142). Count György Almásy wrote about Kazakh women quite the opposite: “The sentimental traveller that writes, tends to embellish the situation of nomadic women most artfully, and they describe them as miserable creatures who are indeed slaves to their coarse and tyrannical husbands. My experiences, however, led me to believe otherwise. The man is not a “lord of the house” at all, but it is the woman or women.” (Almásy 1903: 715–716).

5 *Baligat* (*baligat*) – coming of age, the age of a boy or a girl when he or she can get married.

6 They put owl feathers of the owl into their caps and the cradle of the baby; according to old Kazakh beliefs, the owl had protective powers.

7 *Қызға қырық үйден тыйым* – ‘Prohibitions for a Girl from Forty Houses.’ In this unwritten rule the educational restrictions are listed. The Forty Houses stood for the community where the girl grows up, and the people of the village of the tribe are all responsible for bringing up the girl.

8 Mária Újfalvi-Bourdon used the word Kyrgyz for Kazakh like most European travellers of 19th century, she really was writing about Kazakh people near Kazalinsk (Kazakh territory).

A Kazakh woman acquired her greatest “power” and authority when she became a grandmother: “The subordinate position of women derives from patriarchal customs and it is far from being an issue of power due to the differences of the sexes. I have already mentioned what privileged status matrons (*kympir*⁹) had in the family. This is the result of exceptional reverence generally shown towards the elderly.” (Almássy 1903: 716). There were many cases in Kazakh history, when a woman became the mother of a tribe, or indeed, the whole people.

“Among the Kazakhs there is no greater dispute than a debate over land or a woman.” (Törekululy 1995: 270). In what cases did disputes in relation to women emerge? What causes led to these debates?

1.1. Causes of the debates

a) Abduction of women. Among the Kazakhs it was called ‘abduction of girl’: *kız urlau* (*қыз ұрлау*). It meant the abduction of somebody’s daughter, betrothed, or somebody’s wife or widow. The abduction of women has left traces in literature as well. A number of motifs in literature from all over the world bear witness to this. In the epic poem of Homer the reason for war was the abduction of the beautiful Helen, the wife of Menelaos, who eloped from Sparta with Paris, the son of the king of Troy, Priamos. This is why the Greek army marched against Troy to avenge the slander. According to old Hungarian legends, the sons of Ménrót, Hunor and Magor, while pursuing the Miracle Stag, settled in the region of the Lake Maeotis and abducted the daughters of King Dula; Hunor’s descendants are the Huns, while Magor’s descendants are the Magyars.

In Kazakh society abduction of women was considered one of the most serious crimes and was punished very severely. In accordance with the ‘Seven Decrees’, if somebody’s wife was abducted without the woman’s consent, then the abductor was sentenced to death or was made to pay *khun*, and if it happened with the consent of the woman, then the abductor had to pay *kalym*¹⁰ (Artykbaev 2012: 112).

In later times various punishment fees, namely *ajyps*, were decreed for such crimes (for a married woman – in Zharkent – 29 horses and 1 camel were due, while in the Illisk district 50 horses were owed; for a bride whose *kalym* had been paid and for an engaged girl one had to give 8 horses and 1 camel; in the region of Illisk 100 horses could be demanded for the abduction of a girl; in other words there were different fees depending on the region) (Materials on Kazakh customary law 1996: 91).

b) Murder of a woman (homicide) and the death of a woman. In this case the widow debate, that is, *khun dauy* (*құн дауы*) could be levied, but the penalty was different for women and men. It meant that in the case of killing a woman the *khun* differed from that of men. Usually, the penalty claimed for killing a woman was half of that claimed for killing a man (Materials on Kazakh customary law, 1996: 58).

⁹ The word *кемпір* (*kempir*) means old woman.

¹⁰ *Калым* (*қалын*) – is animal, property, or bridal fee paid for an engaged bride (Dictionary of the Kazakh Language 2008: 466). The word *Қалыңдық* ‘bride’ is derived from this.

According to the ‘Seven Decrees’, for murdering a man 100 horses (or 1000 sheep) had to be paid, and for killing a woman, half of this sum, 50 horses had to be paid. If the dead person was the descendant of the sultan or the *hodja*,¹¹ then one had to pay the price of 7 men (Artykbaev 2012: 168).

Ármin Vámbéry wrote about it as follows: “There are two types of punishment: a) *khun*, which is not different from the Persian *Khun*, blood; b) *ajb* (*ajyp*), borrowed from the word error, mistake. The penalty for the *khun*, that is, homicide, consisted of 100 horses for men, and 50 for women, in addition to which in exchange for an *ajb* a *toguz* ‘nine’ had to be paid too, viz. 9 horses or colts, or cows, or lambs etc.; whereas for children under 10 the third of the *khun* had to be paid. The *ajb*, which had to be paid for other offences, for example, the mutilation or injuring of a body part, adultery, theft, and for other minor violations, consisted of one, two, or occasionally three *toguz*, namely once, twice, or three times nine smaller or bigger animals, in proportion to the damage caused.” (Vámbéry 1885: 370).

However, again depending on the woman’s social status, the compensation for her death was not the same as in the case of men. If a wife died on her own, then her bridal fee was refunded and her saddle with the harness was returned too. If the deceased girl had already been engaged to somebody, and if she had a younger sister, then instead of the older sister, the younger sister could be wed (Materials on Kazakh customary law 1996: 77). *Toguz*, that is, the number of nine was used for expressing a present (Kincses-Nagy Éva 2020: 215–227), but the amount of punishment was also measured with this number. The name of the latter was *toguz ajyp* (*тоғыз айып* [*togiz ajip*]) ‘nine sins’.¹²

c) Punishment was inflicted for abusing a girl, an engaged woman, that is, a bride, as well as a married woman (e.g., rape, bodily harm), and for defamation. According to the ‘Seven Decree’, the punishment for raping a woman was the death penalty, or if her relatives agreed, the perpetrators had to pay *khun*, and if the rapist marries the woman, he has to pay *kalym* instead of *khun* (Artykbaev 2012: 112).

Accordingly the sources from later centuries, for raping a woman, the perpetrator had to pay a three times of *toguz ajyp* (Materials on Kazakh customary law 1996: 59).

d) The inheritance of the widow is what gave the name of all the debates related to women in general. In line with old Kazakh customary law, if the older brother dies, the younger one inherits his sister-in-law. “Certain complications are known to have arisen due to the death of the husband or the bridegroom. On such an occasion the woman or the bride passes to the closest relative of the husband, as an inheritance. More recently, this custom, under Russian influence, was pushed to the background.”

11 *Hodja* (*қожа*) – Islamic preacher, proselytiser, and religious organiser (Dictionary of the Kazakh Language 2008: 507).

12 *Toguz ajyp* (*тоғыз айып*) consisted of three parts: *bas toguz* ‘main toguz’, 9 animals led by a camel; *orta toguz* (middle toguz), 9 animals led by a horse; *ajaq toguz*, respectively ‘final toguz’, consisted of other large cornigerous domestic animals and smaller domestic animals, they did not include any animals without horns (Materials on Kazakh customary law 1996: 63–64).

(Almássy 1903: 716). The dead husband's younger or older brother, who can inherit the widow, that is, the inheritor, is called *amenger* (*әмеңгер*), and the name of the custom of inheriting the widow is *amengerlik* (*әмеңгерлік*) (Dictionary of the Kazakh Language 2008: 88). The aim of this custom was that the wife and the children should not drift apart from the relatives of the father, stay in the family, and should not get into the company of strangers: *Erden ketse de, elden ketpejdi* (*Ерден кетсе де, елден кемнеүді*) 'She can leave the husband, but she cannot leave the folks (relatives)'. There were cases when the widow did not want to marry the younger brother of her husband, which led to debates.

e) Divorce. Generally, women had no right to divorce their husbands, but there were cases, when a woman was allowed to do so. If the husband is unsuitable in performing his duties, beats his wife too often without any reason, suffers from a mental disorder, cannot maintain his family, abandons his family for more than six months, disappears without any trace for seven years, etc., then the wife was allowed to divorce her husband (Artykbayev 2012: 116).

f) Infidelity, unfaithfulness. The debate related to women with one of the most severe punishments in which a man could be sentenced to death: "The man who has an immoral, adulterous relationship with another man's wife must be sentenced to death" (Kaliev 1994: 210). In the Mongolian nomadic Kazakhs' Abak Kerej tribe, laws were strict in the 19th century; the woman was flogged for her infidelity, and if the *mulla* sentenced that she could no longer live with her husband, then she was immediately killed (Materials on Kazakh customary law 1996: 147).

g) Suits arising from issues of wealth related to women (bridal fee, dowry, property rights of the widow), originated from the above-mentioned disputes, from their material aspects: "[...] since the woman – disregarding her workforce – has material value already due to the *kalym* paid for her." (Almássy 1903: 716). A woman could not remain in a materially neglected situation.

The aim of my article is not to research the rights of Kazakh women and debates related to women from a legal point of view, but their representations in Kazakh rhetoric. This, however, cannot be carried out without the knowledge of the background of the Kazakh customary law. The examples outlined above are typical disputes, and in their concrete forms are usually far more complex and complicated. For example, questions regarding polygamy (the rights of *bajbishe* and *tokal*¹³) were not involved in the list due to their extensiveness, which have led to number of debates in modern Kazakh society nowadays. Moreover, it was not the same if a man or woman comes from the common folk or from the aristocracy (*қарасүйек* – black bone, common folk, *ақсүйек* – white bone, aristocracy).

The word *zhesir* means 'widow'. If one surveys the history of the Kazakh Khanate, there were hardly any peaceful periods without war on Kazakh lands. Disputes arose due to the widows of heroes fallen in war so later every debate related to women was called *zhesir dauy* (*жесір дауы*), that is, 'widow debate'.

13 *Bajbishe* 'the first wife', *tokal* 'the second, or third, or fourth wife'.

2. *Zhesir dauy* in rhetoric

The types of debates referred to above were generally not separated, and they were not listed or classified according to their thematic range. Disputes lived on in the collective memory of the people in the form of the eloquent rhetoric and the wise decisions of certain *bi*. In the same manner, debates related to women were also spread among the Kazakh people via oral tradition. Many times, it is unknown what happened to the woman, who was the object or cause of the dispute. From the perspective of the art of rhetoric it was only the word uttered at the final decision of the debate that mattered as most important. To illustrate these, a couple of examples are quoted.

2.1. Widow debate and ‘widow inheritance’ (*ämengerlik - әмеңгерлік*)

An outstanding example of the widow debate is the story of Esim Khan.¹⁴ The older brother of Esim Khan, Tauekel, died and Tauekel’s wife, Aktorgun, thus became a widow. Aktorgun was a beautiful and clever woman. One year after the death of his older brother Esim Khan wanted to marry her via *amengerlik*, that is, ‘widow inheritance’. However, Aktorgun fell in love with Zholymbet, the younger brother of Zhiembet, and she got pregnant from him. The khan sent the hero, Zholymbet, to war with 1000 soldiers. He intended to exile Zhiembet with war prisoners captured during the war with the Oyrats.¹⁵ Complying with the order of the khan, Zholymbet went on his campaign to the east and returned six months later victorious with many spoils of war. He brought 100 *sürsits*¹⁶ to Esim Khan as a present. The khan was pleased with this but did not forget his vengeance, and indeed, his hostility even grew. During one dispute he wanted to eliminate Zholymbet, so he issued an order to first imprison him and then hang him. Zhiembet became aware of this and went to the place where his brother, the hero was to be hanged. Zhiembet looked into the eyes of the khan and said the following:

*Әмірің қатты Есім хан,
Бүлік салып бұйырдың,
Басын бер деп батырдың,
Қанын ішіп қанбаққа,
Жанын отқа салмаққа.
Атадан жалғыз мен емес,
Хан ие, ісің жол емес.
Жолбарыстай Жолымбет
Құрбандыққа қол емес.*

14 Esim Khan (1598–1630), Zhiembet Bortogashuly (1570/1575–1643). The long verse of *Zhiembet zhyrau*, the *Ensegej bojly Er Esim* ‘Stalwart Heroic Esim’ states that the poet really confronted Esim Khan.

15 Oyrats, the westernmost group of the Mongolic peoples.

16 *Šüršit* (*уұршым*) in olden times, this is what the Chinese were referred to (Dictionary of the Kazakh Language 2008: 929).

Жол тосып алып кетінті
 Қалмақтан алмақ сыйыңды,
 Қаһарыңды басқалы
 Қалың елім жиылды.
 Бастан келген өзге емес,
 Жиёмбет сынды биіңді.
 Малың салып алдына,
 Әр саладан құйылды,
 Он екі ата байұлы
 Бір тәңірге сыйынды.

Your order is stern, Esim Khan,
 you gave an order inciting mutiny,
 in order to execute the hero,
 You wanted to suck his blood,
 you wished to incinerate his soul.
 I was not born solely from the father,
 Tiger-like Zholymbet
 cannot be such a sacrifice.
 He carried your loot on the road,
 which you wanted to get from the Kalmyk.
 These many folks gathered together,
 to soothe your anger,
 they did choose as a leader nobody else,
 but me – Zhiembet, your judge.
 With their animals
 They crowded to the place from everywhere.
 On eki ata Bajuly tribe,¹⁷
 pray to One God. (Törekululy 1995: 73–74)

Upon hearing these words Esim Khan changed his mind and released Zholymbet who was waiting to be hanged. This decision of the khan was not a coincidence: he did not want to lose his influence among the people, and by killing a heroic man he would have lost his power. It was like this that Zhiembet ended this long quarrel and *zhesir dauy*, that is, widow debate, which involved revenge.

2.2. The abduction of the engaged bride and the verdict of *Ajteke bi*

Another example of a woman dispute that is very famous is that of a decision of the great *bi* of the Kazakhs, *Ajteke bi* (Әйтеке би).

A long time ago a girl from the Middle *Zhüz* was wooed and got engaged (*құда түсіп, атастырып қойған*) to a man from the Great *Zhüz*. The girl eloped with a

17 This means: “Bajuly tribe consisting of twelve branches”

young man from the Argyn tribe (Middle *Zhüz*). Hence, a widow debate emerged between the two tribal alliances. They stole animals from each other, which led to *baranta* ‘brawling’, too.

Eventually, they turned to *Töle bi* from the Great *Zhüz* and *Kazybek bi* from the Middle *Zhüz*.¹⁸ *Kazybek* said the following:

*Аға болып алдымен туасың,
Барымталап жылқымды қуасың,-*

As my older brother, you were born before me,
Why did you chase my horse away with *baranta*?

Töle bi answered:

*Артымнан ерген еркемсің,
Ағаңның көзі тірісінде
Жеңгенді неге ертесің?–*

You follow my steps, my pampered brother,
Your brother still lived, why
do you take your sister-in-law away with you? – says *Kazybek*.

It was so that the two *zhüzs* hurled their anger at each other. They argued for a long time and could reach an agreement. Then, *Ajteke* seated between them stood up and said the following:

*Сабыр етіңдер ағайын!
Ашу бар жерде ақыл тұрмайды.
Ашу деген ағын су,
Алдын ашсаң, арқырар.
Ақыл деген - дария,
Алдын тоссаң, тоқырар.
Кісі бірге туыспау керек,
Туысқан соң, сөз қуыспау керек.
Сөз қуған бәлеге жолығады,
Жол қуған олжаға жолығады.
Төле сен, жылқысын қайыр!
Қазыбек, сен жесірін қайыр!*

18 The structure of the institution of the Kazakh *bis* is neatly connected to the alliance of the three – Great, Middle, and Minor – tribes (*zhüz*) of the Kazakh people. Every tribal alliance had its own greatest and most famous *bi*, who was called *töbe bi* in Kazakh. *Ajteke bi* (1644–1700) was the *bi* of the Minor *Zhüz*, *Kazybek bi* (1667–1764) was the *bi* of the Middle *Zhüz*, and *Töle bi* (1663–1756) was the *bi* of the Great *Zhüz*. All three of them participated in making the rules of the Kazakh law, ‘Seven Decrees’.

Be patient, my brothers!
 Where anger rules, there is no place left for reason.
 Anger is like flooding water,
 If you do not stop it, then it will sweep away everything,
 Reason is the water of a broad river,
 If you stop it, then it will cede there.
 People should not be born as siblings,
 If they are born siblings, then they should not argue.
 Who follows a train of disputes, will find trouble.
 Who follows a road, will be favoured by fortune.
 Töle, give his horses back to him,
 and Kazybek, you return the widow in turn. (Kazakh Bis and Rhetors
 2016: 50)

It was so that Ajteke, the young *bi*, decided the dispute of her; the two sides made peace and shook hands.

If one looks at this widow dispute, then it is clear that there is no widow; instead, there is an engaged girl. The debate arose because the bride was stolen for which the *kalym* had already been paid.

Ajteke Bajbekuly (1644–1700) lived in the second half of the 17th century when laws were quite strict. If one looks at this story, then Ajteke *bi* settled this debate “successfully” in the view of contemporary laws because the bloody quarrel between the two tribes was brought to a halt, there was no homicide committed in the end. Back then the ultimate goal of the laws was to keep the people together, to prevent animosity and wars from erupting among the tribes. However, the fate of the woman in this debate could not change for the better; it is not mentioned in the oration, as the folk song *Zhubatu* ‘Consolation’, about the fate of the Kazakh woman, shows in the following lines:

*Қара суды жайлаған қаз барады,
 Анасынан айырылып қыз барады.
 Қара суға қан құйсаң ағар, кетер,
 Жат кісіге қыз берсең алар, кетер.
 Жылама, бикем, жылама,
 Көзіңнің жасын бұлама.
 Ұл боп тусаң әуелден,
 Сені мұндай қыла ма?
 Біз бермейік десек те,
 Мал бергенің қоя ма? (Auezov 1991: 52)*

The goose flies off from the surface of the deep water,
 The girl departs from her mother.
 If you pour water on water, it flows away,

If you give your daughter to a stranger,¹⁹ he will take her away.
 Do not cry, young lady, do not cry,
 Dry up your tears.
 If you had been born a boy,
 You would have had a different fate.
 Would they cover your face?
 We do not want to give you away,
 But who paid for you does not leave us alone.

2.3. The death of the poetess and the price of her art (өнер құны)

If an educated woman, trained in the arts, is killed, then some kind of *өнер khuny* ‘price of the art’ (өнер құны) could have been demanded. The *өнер khuny* was for both men and women. The famous Kazakh poet, philosopher, ethnographer, and scholar, Mashür-Zhüsüp Köpejuly (1858–1931) wrote a short story, entitled ‘Ulbike’s Death’.

It is a story of the divorce of a famous poetess; the son of a very rich man sued for the hand of Ulbike Zhankeldikyzy (1815–1849). As the girl was not only beautiful, but also excelled in poetic talent, a threefold bridal fee was paid for her. Her husband was called Bojtanseri. He was jealous of his wife going to feasts and in particular at one of these banquets she was reciting poems with a *hodja*.²⁰ Her husband warned Ulbike: “From now on you cannot attend feasts, cannot sing competition songs, or else I will kill you.” When her husband was not at home, Ulbike went to a feast and recited poems. The siblings of her husband or her brother-in-laws supported their sister-in-law. Other people, however, informed her husband that his wife was reciting poems with the *hodja* at a banquet. After he had returned home, her husband killed Ulbike. The relatives of the woman asked for *khun*. Customarily, in the case of *zhesir dauy*, or debates related to women, the case on the husband’s side was heard, but in this case the right was given to Ulbike’s relatives. They were asked according to which law jurisdiction ought to be served. According to the rule of *Sharia*²¹ or the rule of the *bis*? As they chose the *Sharia*, the judging of the case was entrusted to Küderi *hodja*.²²

19 The family of the bridegroom was called ‘stranger’ (*жам*). There is a proverb: *Қыз - жам жұрттық* ‘A girl matches a stranger.’

20 The poetess Ulbike competed with Küderi *hodja*, Madeli *hodja*, Taspа *hodja*, and the poet Iztileu (Akmetov in Radloff 1994: 613). “The song contest between Ulbike and Küderi *Hodja*” was recorded and published by the Turkologist, W. Radloff in the volume, “The Dialects of the Turkic Tribes of the South Siberian and Dzungarian Steppe” (Radloff, 1994: 569–573).

21 *Sharia* (Arabic: path to a source of water; also Persian and Urdu: *shariat*) *Sharia* is the law of Islam based on God’s sovereign commandments and prohibitions as conveyed by the Quran, and on the *Sunna* of Muhammad and his Companions, as embodied in the *hadith*. It is often identified with another concept of Islamic law—jurisprudence (*fiqh*). Juan E. Campo. Encyclopedia of Islam 2009: 620.

22 Küderi *Hodja* Kösekuly (1820–1858): famous Kazakh poet. It is a popular belief that Küderi *Hodja* was Ulbike’s master.

Küderi demanded the price of three men for Ulbike: 1. ‘the price of the bone’ (*süjek khuny cүйек құны*): 50 horses and ‘six good things’ (*алты жақсы*), which had to be paid for every man, and in the case of women, this is half of a man’s price; 2. ‘the price of art’ (*өнер khuny өнер құны*): 50 horses and six good things; and 3. ‘black khun’ (*қара құн kara khun* or *тоқал құн tokal khun*, that is, second): *тоғыз жақсы* ‘nine good things (camel, carpet, rifle, etc.)’ (Köpejuly 2006: 256).

The great 19th-century Kazakh poet, Abaj Kunanbajuly (1845–1904) did a tremendous amount for the protection of Kazakh women’s rights. He wrote many progressive chapters on defending women’s rights in the Karamola lawbook written by him. There are many articles on the law-reforming activity of the Kazakh people’s great poet, and it is worthy of further studies.

Summary

Kazakh literature is served with numerous examples of disputes related to women. This study quoted and interpreted only a few. In the first debate a woman may have been the victim of the situation that emerged around her, and the later fate of this woman is unknown. However, her story, passed down in the memory of the people, carries positive, pleasant feelings and connotations due to the eloquently worded decision of Ajteke *bi* that held together the three tribal alliances. In the other debate, *Zhiembet zhyrau* managed to secure happiness for the woman and her heroic brother; in this case Kazakh oral tradition preserved the words of the poet, Zhiembet, in the form of a fine verse. These beautiful words were carved into the memory of the people because of their eloquent and fine verse form, which were transmitted orally from one generation to the next among the people. It can also be seen that the situation of Kazakh women, even though they were constrained by strict rules, were included in the most important questions of Kazakh society in every period. The debates related to women show that the fate of women were always paid attention to, since it was very closely connected to the fate of the tribe and the people.

References

- Almássy, György 1903. *Vándor utam Ázsia szívébe*. [My Wandering into the Heart of Asia] Budapest.
- Artykbaev, Zhambyl = Артықбаев Жамбыл 2012. *Жеті жарғы - Мемлекет және құқық ескерткіші*. Алматы. Жеті жарғы.
- Auezov, Muhtar. = Әуезов М. 1991. *Әдебиет тарихы*. Алматы. Ана тілі
- Dictionary of the Kazakh Language = Қазақ тілінің түсіндірме сөздігі*. 2008. Алматы. Дайк пресс.

- Kaliev, Orazayev, Smailova = С. Қалиев, М. Оразаев, М. Смайылова 1994. *Қазақ халқының салт-дәстүрлері*. Алматы.
- Kazakh Bis and Rhetors = Қазақ би-шешендері*. 2016. Ed. by Serik Korabayev. Алматы. Айғаным.
- Kincses-Nagy Éva 2020. Nine gifts. In: *Ottomans-Crimea-Jochids. Studies in Honour of Mária Ivanics*. Ed. István Zimonyi. Szeged.
- Körejuly, Mashür-Zhüsüp = *Мәшһүр Жүсін Көпейұлы*. 2006. Шығармалары. 9 том. Павлодар.
- Materials on Kazakh customary law= *Қазақ әдет-ғұрып құқығының материалдары*. 1996. ред. З. Кенжалиев, С. Дәулетов, Ш. Андабеков, М. Әділбаев, Е. Тоғжанов. Алматы. Жеті жарғы.
- Mukusheva, Raushangul 2013. A kazak szokásjog irodalmi megjelenése [The appearance of Kazakh customary law in literature] *Keletkutatás Ősz*, 135–137.
- Mukusheva, Raushangul 2017. A kazak zsyrau-ok költészete és a tolgau műfaj a 15–18. században (The poetry of Kazakh zhyraus and the genre „tolgau” in the 15th–18th centuries). In: *Dentumoger I. Tanulmányok a korai Magyar történelemről*. Ed. Balázs Sudár. Hungarian Academy of Sciences. Budapest, 293–313.
- Radloff W. = Радлов В.В. 1994. *Наречие тюркских племён, живущих в южной Сибири и дзунгарской степи*, I. отделение, часть III. Санкт-Петербург 1870 in: *Ел қазынасы ескі сөз*. (The collected works of Kazakh folklore by Radloff) Ed. Akhmetov Z. Almati.
- Törekululy, N. = Төреқұлұлы Нысанбек. 1995. *Қазақтың жүз би-шешені*. Алматы. Қазақстан.
- Újfalvi-Bourdon, Mária 1885. *Újfalvi Károly utazása Párizstól Szamarkandig. Egy párizsi nő úti élményei*. [The Travels of Károly Újfalvi from Paris to Samarkand. Travel Experiences of a Parisian Woman] Budapest. Révai testvérek.
- Vámbéry, Ármin 1885. *A török faj*. [The Turkic Race] Budapest.