

# **Actual problems of criminal law, criminal procedure and criminalistics**

## **Materials of scientific conference**

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# **Actual problems of criminal law, criminal procedure and criminalistics**

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### **The role of the court to protect the rights of man and citizen**

**Abstract.** This article discusses that before the courts of the Republic of Kazakhstan faces challenges that provide protection guaranteed by the Constitution of Kazakhstan personal rights and freedoms, socio-economic and political rights of man and citizen. The activities of the court to protect the rights referred to justice, while the activities of other bodies such as the protection of justice is not. The judiciary has a pronounced character of law enforcement, resulting in a form of judicial protection of the rights and legitimate interests of the most extensive and thoroughly regulated.

**Keywords:** court, the judiciary, the protection of the judicial power.

The sovereign state of Kazakhstan has successfully overcome the first stage of the judicial and legal reform. Its result was the adoption of the Basic Law of the Constitution of the Republic of Kazakhstan, the Constitutional Law "On the Judicial System and Status of Judges of the Republic of Kazakhstan", a package of new codified laws, while those governing criminal procedure legal, and many other laws aimed at legal support for new economic and social reorganizations in the polity.

It should be noted that the importance of the research problem, primarily due to the fact that the Constitution of the Republic of Kazakhstan 1995, p. 4 of Art. 3 Fix the proposition that "the state power in the Republic is unified and executed on the basis of the Constitution and laws in accordance with the principle of the separation of legislative, executive and judicial branches and their interaction with each other using a system of checks and balances." The Concept of Legal Policy of Kazakhstan emphasized that decisive action is taken according to the judiciary as a separate and independent branch of government will, designed to protect and

defend the rights and freedoms of man and citizen, the inviolability of the constitutional system, unified economic and legal environment of Kazakhstan. Following the adoption of 13 December 1997 Code of Criminal Procedure in the Kazakh criminal procedure legislation occurred fairly major changes that put in front of the new science of criminal relevant theoretical and applied problems. In this connection, the further improvement of criminal procedural law led to the creation of a new screening trial stage, previously unknown to the domestic criminal procedure institute - an appeal, including the merits of the appeal stage for certain categories of cases.

On 3 Congress of Judges of Kazakhstan President NursultanNazarbayev clearly identified eight priority areas of judicial reform. The most important of these, of course, is the implementation of the criminal trial by jury. [1] As an essential safeguard of the rights and legitimate interests of the citizen and the person called upon to fill the jury the true content of the principle of the independence of judges in the administration of justice on the most complex and have wide

In a state of law, which seeks to build the Republic of Kazakhstan, the right to judicial protection is a guarantee in respect of all other rights and freedoms of man and citizen [4, p. 28].

The Constitution of Kazakhstan st. 78 legislated legal guarantees of human rights: "The courts are not entitled to apply laws and other regulatory legal acts infringing on the rights and freedoms of man and citizen. If the court finds that a law or other regulatory legal act subject to application infringes on the rights and freedoms of man and citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional. "

The courts of the Republic of Kazakhstan to carry out complex work on the protection of social and economic rights of man and citizen. The economic recovery that took place in Kazakhstan in recent years, contributed to the strengthening of social and economic rights, reduce poverty and increase employment. However, the complexity of social relations in the sphere of labor, employment, health, business, property and led to a violation of human rights, the emergence of numerous disputes and handling complaints to the judicial authorities.

Strengthening legal protection of rights and freedoms in the field of socio-economic relations facilitate the adoption of regulatory decisions of the Supreme Court of the Republic of Kazakhstan "On some questions of application by courts of law in the resolution of labor disputes", "On some issues of application by the courts of the land legislation", "On application by the courts of legislation in the resolution of disputes relating to the education of children ", " On the practice of courts of law on consumer protection. " "On some issues the resolution of disputes relating to the protection of property rights to housing," "On application by the courts of some of the legislation on protection of copyright and related rights" and others.

In general, during the period of economic growth in the courts to protect the constitutional rights of citizens to private property, to just and favorable conditions of work, equal pay for equal work, to social security and recreation, a healthy environment,

to freedom of entrepreneurial activity in the provision of public services, and so on .d. That is, while protecting social and economic rights, the losers often claim biased approach of judges in cases of unjust decisions allowed them [5, p. 77].

Human rights protection is provided directly in the application of the rules of substantive and procedural law by the court. However, it plays an important role in this process and the state of the judicial system:

- The decision of questions of principle to ensure the independence of judges;
- Development of fundamentals guarantees the independence of the courts; level arrangement issues of the judicial system;
- The creation of judicial bodies;
- The creation of specialized courts;
- Improving the recruitment and appointment to judicial office, and others.), Which, with appropriate issues, can create a completely different structure of human rights protection, to determine a more just from a legal point of view, the process of economic transformation.

Courts should also be discharged by the differentiation process, simplifying a number of procedures, greater use of alternative dispute resolution, such as arbitration courts, the introduction of mediation procedures, etc. [6, p.11]. In this regard, active process of specialization of the courts, established and functioning has administrative, economic, juvenile courts, worked out the possibility of creating in the courts of mediation, introduced institution of the jury, to improve the system of enforcement proceedings with the preparation of the introduction of the institution of private bailiffs, selection for judicial office, training of the judiciary. All this naturally enhances the level of judicial protection of human rights.

The judicial system of the Republic of Kazakhstan does a lot of work for the protection of human rights and freedoms, despite the difficulties of objective and subjective factors in it.

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## Contents

<b>Section 1. Actual problems of criminal law</b> .....	3
<i>Abbasov A., Shopabayev B.A.</i>	
Psychological portrait of the terrorist.....	3
<i>Abdulkaum Z., Aratuly K.</i>	
Murder for hire: the theory and practice.....	7
<i>Abzhabpar A., Daubassova S.Sh.</i>	
Classification of ecological offenses.....	9
<i>Aizharykova A., Satybaldinov D.D.</i>	
Scientific validity criminal legal norm as condition of their efficiency (theoretical and practical questions of classification of forms of participation).....	12
<i>Ainakulova D., Malikova Sh.B.</i>	
Murder committed in aggravating circumstances.....	14
<i>Amangeldy A., Shopabayev B.A.</i>	
Criminal and legal characteristic of the separate types of corruption crimes.....	18
<i>Baymurat M., Umirbaeva Z.A.</i>	
Determination of the objective and subjective elements of bribetaking.....	19
<i>Bekbolatuly M., Dzhanarayeva R.Ye.</i>	
Model Law "On the treatment of animals" in the Republic of Kazakhstan – a step towards solving a number of social problems.....	24
<i>Bekbolatuly M., Dzhanarayeva R.Ye.</i>	
Research the experience of foreign countries in the fight against prostitution and the possibility of its implementation in the Republic of Kazakhstan.....	26
<i>Bissenova M.K.</i>	
Features and innovations of the new Criminal Code of the Republic of Kazakhstan.....	28
<i>Boribai M., Bissenova M.K.</i>	
Manifestation of crimes against property in the new Criminal code accepted on July 3, 2014.....	32
<i>Daubassov S., Razakov A.</i>	
The problem of illegal migration, and possible ways to solve it.....	34
<i>Dauletbai D., Dzhanarayeva R.Ye., Mukhamadiyeva G.N.</i>	
Measures to combat juvenile offense.....	36
<i>Yergali A.M., Nurbekova K.</i>	
The legal framework to combat corruption in the Republic of Kazakhstan.....	38
<i>Yergali A.M., Alimkulov G.</i>	
Criminological and Victimological characteristics of fraud.....	41
<i>Zhamankenova A., Duzbayeva S.B.</i>	
Foreign experience of fight against crime of minors.....	44
<i>Kaketayeva Zh., Malikova Sh.B.</i>	
Juvenile delinquency in the Republic of Kazakhstan.....	46
<i>Karataeva A.M., Daubassova S.Sh., Serikbayev A.M.</i>	
The subject of legal relations, and their features.....	48
<i>Karataeva A.M., Serikbayev A.M.</i>	
The concept of legal relations, content and their basic concepts.....	50
<i>Makhmutova A., Mukhamadiyeva G.N.</i>	
Actual problems of the application of compulsory educational measures to minors.....	52
<i>Muratova A., Taubayev B.R.</i>	
Positive experience of functioning of penal institutions of Norway and possibility of its use in the Republic of Kazakhstan.....	54
<i>Musagali A., Shopabayev B.A.</i>	
Psychological and personal features subjects of computer crime.....	57

<i>Nurgaziyeva M., Duzbayeva S.B.</i>	
Features of juvenile crime.....	59
<i>Ordabek K., Aratuly K.</i>	
Problems of corruption and possible solutions.....	61
<i>Omerbayev E.S., Bissenova M.K.</i>	
Criminal law characteristics of economic crimes.....	63
<i>Rakhmetova A., Mukhamadiyeva G.N.</i>	
Psychological portrait of the criminal.....	67
<i>Sartayev S.A., Daubassova S.Sh., Abdykadyrova Zh.</i>	
Theoretical and legal issues to ensure lawful behavior in the Republic of Kazakhstan.....	69
<i>Satybaldinov D.D.</i>	
Cruelty to animals in the foreign and domestic criminal law and criminalistics field.....	72
<i>Satybaldinov D.D.</i>	
Preventive aspects of animal cruelty in the world today.....	74
<i>Sukhanova A., Shopabayev B.A.</i>	
Problems of fight against crime against public safety in the light of legal education.....	77
<i>Taukenbai A., Tlepbergenov O.N.</i>	
The role of criminal politics in the national system of the Republic of Kazakhstan.....	79
<i>Tlepbergenov O.N.</i>	
Techniques for teaching law in the Republic of Kazakhstan.....	82
<i>Tomayeva N., Shopabayev A.B.</i>	
Experience of foreign countries in fight against corruption.....	85
<i>Tokhtakhunova D., Shopabayev A.B.</i>	
Internet as means of influence on consumption drugs and their analogs.....	90
<i>Shopabayev B.A.</i>	
Criminological characteristics of criminality of migrants.....	92
<b>Section 2. Actual problems of criminal procedure.....</b>	<b>102</b>
<i>Abilkhair B., Sharipova A.B.</i>	
The subject of the Truth in a Criminal Proceeding.....	102
<i>Askarbek M., Sharipova A.B.</i>	
The role of the court to protect the rights of man and citizen.....	106
<i>Bekentaeva A., Duzbayeva S.B.</i>	
Professional ethics of the lawyer.....	109
<i>Daubassov S., Abdrazak A.</i>	
Urgent problems of appeals procedure of juveniles.....	112
<i>Zhaksybekov B., Bersugurova L.Sh.</i>	
The role of the Prosecutor's supervision on stages of the criminal process.....	114
<i>Kadyrbayeva G., Zhanibekov A.K.</i>	
The role and legal status of the court in modern Kazakh criminal proceedings.....	117
<i>Kurmankulov A., Alimkulov E.T.</i>	
Some problems of mediation in criminal proceedings the Republic of Kazakhstan.....	121
<i>Kurmankulov A., Bayandina M.O.</i>	
The moral essence of service to society and the state of law enforcement officers.....	125
<i>Kurmankulov A., Bayandina M.O.</i>	
Some problems of acquittal in criminal proceedings.....	127
<i>Mustafa Zh., Duzbayeva S.B.</i>	
Supervision of the legality of executive production.....	128
<i>Myrzakhan Zh., Mukhamadiyeva G.N.</i>	
The legal basis of criminal procedure protection of individual rights.....	131
<i>Okhmetov E., Duzbayeva S.B.</i>	
Lawyer mystery.....	134