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ABSTRACT

of the dissertation for the degree of Doctor of Science

SİMİLARİTİES AND DİFFERENCES BETWEEN OF RİGHT AND MORALİTY İN PHİLOSOPHY

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INTRODUCTION

The actuality of the subject and degree of elaboration. One of the main teachings of Western philosophy is "Philosophy of Law". Although the Western philosophers, who are the creators of this science, have different theories about law, the ideas put forward by each of them are considered the main topics of the philosophy of law. But thinking about law is not new, it has a history as old as law itself. If we look at the history of philosophy, we will see that people recognized law as a sacred practice and called its rules and laws a divine command. As divine laws do not change, so do right and laws; no one was allowed to violate the holy laws. However, with the passage of time, as a result of the different cultures that emerged as the era changed, law gradually lost its divine color and took on a social character. In such a situation, law was considered the most important tool of western culture, and western thinkers decided to write a philosophy of law and interpret it according to their wishes and requirements; their main purpose is to examine the essence, characteristics, legal structures, law and ethics, ethics and law, law and justice, law and equity (fairness), conscience, customs and traditions, freedom, equality and other important issues. In our present time, this prestigious science is a topic that not only in the West, but also Eastern philosophers and legal philosophers pay attention to, and it is thoroughly researched. Philosophers have analyzed the essence and principles of law, including the theory of law, from a philosophical perspective, which branches this science consists of how many parts it is divided into according to its structure, and shown its advantages[1]. Philosophers have logically proved that these topics are necessary for the public, and explained the similar and different aspects between them.The essence of law is the internal force inherent in law that drives society to obey it and protects it from any element that might harm society. The philosophy of law refers to the subjects of jurisprudence, and these

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[1] Katuzian, N.A. Philosophy of law: definition and essence of law / N. Katuzian. – Tehran: Joint Stock Company, – 2009. – vol. 1, pp. 34 & 35.

are subjects that have been studied by philosophers and legal philosophers throughout the ages and are still relevant today. Although there are different issues between the philosophy of law and jurisprudence, both of them exist in a single system to show the qualities and values inherent in human beings, because the philosophy of law cannot come to the right conclusion only by referring to mental (thinking) it is important to refer to the science of law, the topics that exist here, in order to come to the right conclusion; the science of law cannot be analyzed only with reference to practice, i.e. human actions, because law is independently and directly dependent on human will. In such a case, there is a connection between law and philosophy, and their union is not only due to philosophy and law, but the main goal here is to learn and realize the highest values intended for humanity.

Philosophers, while writing the philosophy of law, focused on a number of important topics, which are cultural, socio-political, and social issues that remain relevant in all eras. Among these topics, "Law and Ethics" is considered the main topic, which includes other topics; we observe the socio-political, social, cultural activity of law only in relation to law and ethics. Law and ethical norms, together with teaching a person what to do, how to behave, and mutual communication, show the ways of this, entrust us with the rights, understand the importance of the responsibility we undertake, and consider it necessary to fulfill them. These norms teach a person what to do and what not to do, define social rights, and consider human duties as necessary and insists that the rights and duties belonging to the public be recognized and respected; the philosopher tries to show the advantages of human existence by referring to legal and ethical rules.That is why we face a number of important questions related to the topic: what is law and what rights do people use? Is a connection between law and ethics possible, and if so, under what circumstances? What are the similarities and differences between law and morality? Natural (divine) and positive (human) law, which law is called, what are their similarities and differences? What is the law? How do laws come about and why should we obey them? What connections exist between man and law? In general, is

social activity possible without law? Why are philosophers, moralists and legal philosophers interested in these topics? For what reasons did philosophers include law in general philosophy without separating it from practice? Was the analysis of lawyers not enough, philosophers investigate within exact (mental) sciences (philosophy and classical logic) without separating law from practice, what is the reason for this? The solution of legal issues depends on the laws within the law, but what system is the law subject to and where do the laws it applies come from? Since these and other related questions are relevant at the present time, it is necessary to answer them by referring to authentic sources. Since the mentioned questions stem from the connection between law and ethics, the answer to them should be investigated in the present study, because these questions cover issues that are necessary at all stages of social life, and their radical research and analysis is considered relevant for the present and future period.

The topic of the dissertation is "Similar and different aspects between right and morality in philosophy"; morality is a force related to human will, and the subject of this study is human being, soul and action. The main goal of the connection between law and ethics is to bring human existence to the highest level of perfection. *Justice,* which is the most superior characteristic of morality, has a special place in the perfection of a person. Justice regulates the rules of law and regulates them according to the structure. Justice is not only a virtue, justice is also a universal principle that includes personal and social rights, which every individual is considered necessary to observe. Philosophers, especially Kant, when talking about the connection between law and ethics, considered it impossible to separate them. He associated ethics with self and valued any good or bad deed as "good will"[2]. The relationship between law and ethics is not limited to justice, where equity, conscience, custom, equality and other topics necessary for social life form the basis of research. In the regulation of social relations

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[2] Pashayeva, A. N. Philosophy of Law / A. Pashayeva. – Baku: Europe, – 2019. – p. 38.

on the basis of laws, in addition to justice, equity, humanity, conscience and tradition are the main criteria that directly affect the operation of law; more clearly, *equity* has the power to regulate in all situations; equity decides on the basis of conscience and prevails over rules; equity is considered a basic condition not in the existence of legal norms, but in their development, because legal norms that are not based on equity do not have any social impact.

Conscientiousness (being honest) independently of biological rules in the form of other rules called moral rules of society, creates stability and ensures security in social relations, that is, in friendship, togetherness, solidarity, alliance and the development of ethical principles. These rules determine the rights and restrictions for individuals and society, prevent the occurrence of conflicts and ensure the resolution of these conflicts and disputes. In order to ensure coexistence, conscience ensures the understanding of common values for all members of society based on a certain threshold, which are called individual and social (public, civil) rights[3]. Of course, in the regulation of laws, along with justice, equity, and conscience, *custom* also has a special function. It should be taken into account that before the establishment of the legislative body, the custom existed in social life, and there was a connection between the later created legislative body and the custom. As for the influence of custom in the sources of law, it is considered as the source of legal rules. From the point of view of law, custom and tradition are unwritten rules that arise from the will of people as general, special, permanent and independent, and there is no activity or role of the state in their creation, but it must be officially recognized by the state to be enforced in courts. In addition to the rule of law, customs and customs, also include judicial procedures and other sources of law, and also in the current era, laws are collected based on customs and traditions. Custom and tradition have an impact on civil law, because civil law is a function of the implementation of the concept of citizenship.

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[3] Pound R. An introduction to the Philosophy of law. – New York: BiblioLife, – 2009. – pp. 22-25.

The similarities and differences between right and morality do not end there, the existence of *morality* and *law* is also considered as the main condition. According to philosophers, law is a general command that covers all matters, law has some criteria and advantages compared to other rules, but man needs ethical norms more than law. One of the social goals of ethical norms is to encourage people to obey the law; moral norms are an individual and creative subject that covers all categories of society. As for the social goal of morality and law, just as morality is one of the common institutions between the individual and the society, the law is one of the common aspects of the individual and the society. At all stages of human history, the question of observing moral norms is a matter of individuals' private and family institutions; morality moves from the few to the many, starting with the family, which is a kind of small institution, and gradually grows. It is a reality that society needs *legal ethics* because unethical behavior warrants criminal liability even when it does not harm others. It is in such a situation that there is a need to connect law and ethics, morality and law. Legal philosophers argue that there should be a certain threshold that reflects the will of the judge, and that this threshold is not related to ethical norms, but to legal issues. because ethical norms and law are two important social institutions that both regulate social relations and have common aspects, but nevertheless they should be considered differently from each other. The conclusion reached by the philosophers is that if the legislature adopts a law outside of justice, it is considered an immoral law and does not have any ethical norms. In such a case, the legislative body has no right to require citizens to comply with that law. Because the natural law that arose before the positive law is directly involved in the content, formation and validity (legal) of the positive law. Despite the mentioned similar and different ideas, it is a reality that law and ethics, including morality and law, need each other in solving both public and social issues. The main goal of law and ethics, as well as legal and moral norms, is to protect humanity, to create a social society consisting of decent, ethical norms-following, sane people.

Another important topic in the dissertation is the interaction of law and ethical norms in Christianity and Islam. These norms are manifested in both religious structures. Along with religious rites, special attention was paid to rights and ethical norms in the heavenly books. Since its inception, the Christian religion has given priority to the norms of natural law and emphasized that these norms should be combined with ethical values. Divine words do not only contain commands and prohibitions, but wise words, advices, and values given to people are indicators of ethical norms. As for the Islamic religion, the Islamic religion has extensively discussed this issue, referring to the Holy Quran and other authentic sources on which the religion is based, and insisted that these norms are valid at all times, regardless of different eras. Islamic legal structures based on ethical norms consist of several parts. The main purpose of these structures is to maintain socio-political stability, to give importance to unity and cooperation, to make efforts to educate people, not to allow discrimination, to observe legal and moral norms in social relations[4]. Of course, such important topics, which are important for the society we live in, maintain their relevance even in the modern era, and there is a basis for their investigation in the future. I hope that this new dissertation topic, on which I am conducting research, will be important in the research of real scientists not only in the country, but also outside the country.

The degree of elaboration of the topic. The law and the important topics related to it, including the philosophy of law, right and ethics, morality and law, their social and political functions, which are mainly related to the ancient Greek thinkers, occupy an important place in the works of Socrates, Plato and Aristotle, and their teachings. Socrates stated that the laws were not created by people, but by God for all mankind. Plato considered the natural legal basis to be the main criterion for the discovery of the existing world. As for Aristotle, his activity is wider and comprehensive. He not only talked about the essence of law and ethical norms, but also

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[4] Abdullah Javadi Amuli. Rights and duties in Islam / A. Abdullah. – Tehran: Esra, – 2013. – pp. 210-225.

clearly stated the mutual relationship between law and ethics, morality and law, law and justice, their relation to each other, social and political functions, similarities and differences. Unlike Socrates and Plato, Aristotle focused more on the characteristics of law than its essence. After him, he left three great works covering these topics (Ethica Necomachea; Ethica Eudemia; Magna Moralia) to the future generations, which cannot be ignored in studies related to the philosophy of law, law and morality. Of course, with the passage of time, especially in the Middle Ages, attention to the philosophical, legal, socio-political and ethical teachings, which were considered important for humanity, increased and reached the modern era.

Along with philosophers, these topics attracted the attention of moralists, lawyers, legal philosophers, political figures, sociologists, historians, and even economists, and as a result, they wrote a large number of valuable works based on various ideas and presented them to the public. As an example, we mention the names of some well-known thinkers and scientists who are famous for their consistent activity and ideas in this field from the Middle Ages to the new and modern era. Among them, the famous English philosopher and politician Thomas Hobbes[5], John Locke[6], who is considered one of the most influential thinkers of the Enlightenment period and also the father of "Liberalism"; Gottfried Wilhelm Leibniz[7], genius German philosopher, mathematician, physicist and jurist, author of the binary number system project, founder of mathematical analysis; famous German philosophers Immanuel

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[5] Thomas Hobbes. Leviathan. – ed. by C. B. Macpherson, Harmondsworth: Penguin Books, – 1968. – p. 202.
[6] Oakley Francis and Elliot W. Urdang. Locke, Natural Law, and God, In John Locke: Critical Assessments, Edited by Richard Ashcraft. – London and New York: Routledge Taylor & Francis Group, – 1966. – p. 64.
[7] Gottfried, Wilhelm Leibniz. Leibniz: Political Writings. – Editor Patrick Riley. Cambridge University Press, – 1988. – pp. 53-57.

Kant[8], Georg Wilhelm Friedrich Hegel[9], Dennis Lloyd[10], English philosopher and economist Henry Sidgwick[11], Herbert Lionel Adolph Hart, one of the proponents of the theory of positive law[12], American political philosopher and ethical (moralist) John Rawls[13], American political philosopher and economist Karl Widerquist[14], also among the Turkish researchers on this subject, legal scholar Adnan Guriz[15], Yasemin Ishıktach[16], Hayrett's Orphan[17], Yener Unveri[18], Hakan Hacker (1966) is an example.

In addition to the mentioned scientists, researches on this topic were also conducted in Russia, Iran and Arab countries, some of which we mention. Among them, Chicherin Boris Nikolaevich[19],

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[8] Kant İ. The Moral Law: Logic. Kant's Groundwork of the Metaphysic of Morals. A new translation with analysis and notes by H. J. Paton. – London: Hutchinson's University Library, – 1956. – pp. 65-67.

[9] Hegel, G. W. F. Philosophy of Right. – Translated with notes by T. M. Knox. London: Oxford University Press, – 1967. – pp. 43, 48.

[10] Dennis L. The idea of Law. – London: Penguin Books INC, – 1964. – p. 70.

[11] Henry Sidgwick. The Methods of Ethics. – Hackett Publishing Company; 7th edition, – 1981. – pp. 267-268.

[12] Hart, H. L. A. The Concept of Law. – Oxford: Clarendon Press; New York: Oxford University Press, – 1994. – pp. 8, 20, 81.

[13] John Rawls. A Theory of Justice. – Oxford: Oxford University Press, – 1999. – pp. 53-54.

[14] Widerquist, K. Article. Lockean Theories of Property Justifications for Unilateral Appropriation. – Qatar: Georgetown University. Public Reason, – 2010. – p. 4.

[15] Guriz Adnan. Philosophy of Law / A. Guriz. – Ankara: Siyasal Publishing Distribution, 2009. – p. 64.

[16] Ishiktach Yasemin. Philosophy of Law / Y. Ishiktach. – Istanbul: Filiz Bookstore, – 2006. – pp. 30-33.

[17] Hayrettin Okchesiz., Gulriz Uygur., Saim Member. Philosophy and sociology of law archive. / HE. Hayrettin, U. Gulriz, U. Saim – Istanbul: Istanbul Bar Association publications, – 2014. p. 23.

[18] Yener Unver, Hakan Hakeri. Criminal Procedure Law. / H. Hakeri. U. Yener, H. Hakan – Ankara: Adalet Publishing House, – 2010. – p. 16.

[19] Chicherina, B. Philosophy of Law / B. Chicherina. – Moscow: Russian Thought, – 1900. – p. 31.

Valery Lazarevi[20], a well-known lawyer, also among the Iranian scientists distinguished by their valuable works in this field, the famous lawyer, philosopher, ethical (moralist), social and political figure Nasser Katouzian[21], jurist philosopher and ethical (moralist) Muhammad Jafar Langerudi[22], Syed Muhaqqeq Damad[23], Mustafa Danesh Pajuh[24] and others can be given as an example, and during the research, detailed analyzes were made with reference to their works.

In the elaboration of the dissertation topic, the works of foreign authors and local authors were also referred to. However, before mentioning the authors, we would like to say that there are certain issues related to morality in the work "Tahzibul-akhlaq" by the Azerbaijani thinker Abbasgulu Agha Bakikhanov (1794-1847), however, since the current topic covers the necessary issues of lright and ethics, right and morality in international legislation, as well as philosophical aspects, the works of philosophers and legal philosophers moral scientists, lawyers, sociologists, politicians, historians and economists who are specialists in this field we considered it necessary to refer that their names are mentioned above. But when it comes to local authors, one of the philosophers

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[20] Lazarev, V. V. Common law and state theory. Translated by: Aziz Rzabeyli / V. Lazarev. – Baku: Law, – 2007. – p. 32.

[21] Katuzian, N.A. Ethics and right // – Tehran: Ethical Quarterly in Science and Technology, – 2007. No. 1, 2, – pp. 84-88.

[22] Langerudi, M. C. The beginning of legal science / M. L. – Tehran: Ganj-e-danesh, – 2004. – p. 50.

[23] Muhaqqeq Damad, M. Religion, Philosophy and Law / M. Muhaqqeq Damad. - Tehran: Daneshgah-e Tehran, – 1999. – pp. 73-75.

[24] Daneshpaju, M. Islamic legal structure /M. Daneshpage. – Tehran: Ganj-e danesh, – 2009. – p. 2.

is Yusif Rustamov[25], Ilham Mammadzade[26], Fuzuli Gurbanov[27], as well as legal scholars Habil Gurbanov[28], Eldar Hasanov[29], Agshin Guliyev[30] and Ilham Rahimov[31] and others can be examples.

Although "Philosophy of right" - "Right and ethics", "Right and morality", "Right and logic", "Morality and law", "Right and conscience", "Right and fairness", "Right, customs and traditions" , "Right and religion" and other important topics in this field have been fundamentally left out of research in the philosophical, legal, ethical, moral, logical, sociological aspects, but in 2019, it was studied and analyzed in detail in the monographs written by the dissertation author (Philosophy of Right. Baku: Europe, 2019; Философия права. Ukraine: "Sobornost", 2019) and in the current dissertation.

In addition to the mentioned issues, in the dissertation, referring to the ideas Western of Eastern and scientists who have more well-known and valuable works in this field, their goals and objectives were investigated. Here, when we say research, we sometimes observe conflicting ideas in the authors' ideas, but in order to eliminate them, we have presented our approach by explaining the topic in a radical way and tried to show the ideas that we are more based on. Regarding the analysis of the topic in the dissertation, the authors are not directly referred to; if we read the presented dissertation in detail, we will see that all the sources used

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[25] Rustamov, Y. I. Fundamentals of philosophy / Y. Rustamov. - Baku: Elm, – 2004. – p. 455.
[26] Mammadzadeh, I. R. About philosophy again / I. Mammadzadeh. – Baku: Science and Education, – 2020. – p. 74.
[27] Gurbanov F., Madatli E. One nation-two states. Philosophical-historical analysis. / F. Gurbanov, E. Madatli. – Baku: Science and education, – 2020. – p. 41.
[28] Gurbanov, H. S. Society and socio-legal problems / H. Gurbanov. – Baku: Elm, – 2018. – p. 140.
[29] Hasanov E. Fundamentals of state and law of Azerbaijan / E. Hasanov. – Baku: Azernashr, – 2009. – p. 55.
[30] Guliyev, A. I. Historical aspects of sociological jurisprudence / A. Guliyev. – Baku: Khazar University, – 2017. – p. 14.
[31] Rahimov, I. M. Religion and punishment / I. Rahimov. – Baku: Europe, – 2021. – p. 171.

here are given based on analysis, that is, before referring to the author, the topic was discussed, research was conducted, and then the author's opinions were noted based on analysis and in a comparative aspect. Another important aspect in the development of the dissertation topic is that there are special terms related to various fields, and for their complete clarity, those special terms have been written in parentheses in English, French, Latin, and some of them have been translated into Arabic. In addition, electronic resources were also used in the research work.

The object and subject of the research. The object of the study is philosophy, ethics, moral relations of philosophy and right and is the law. "Similar and different aspects between right and morality in philosophy" although it is a topic of western philosophy, referring to eastern philosophy as well as western philosophy, researches and analyzes were conducted mainly on the basis of accepted ideas of philosophers, moralists, legal philosophers, political figures, historians, sociologists, economists and other scientists. Here is the philosophy of right, the science of law, the ratio of right and ethics in philosophy, right and morality, morality and law, the concept of legal ethics, man and law, man and justice, right and justice, right and equity (fairness), right and conscience, right and customs- -traditions, right and society, the interaction of law and moral norms in Christianity and Islam, also similar and different aspects between these topics, the connection between them, separation in some cases, their importance for the public and other important topics were studied based on authentic sources in different languages, which is considered the subject of the dissertation.

Research goals and objectives. As mentioned above, despite being one of the main factors in the formation of the current subject culture, it has been left out of the scientific research. The main goal of researching the subject of the dissertation is that the rights and laws, which have the main place in the socio-political and cultural outlook of every nation, are formed on the basis of moral norms and presented to the public. Ethical norms exist at the root of every law, a law that is not based on moral norms cannot have a social function,

and even if it does, it is considered invalid. Moral norms, which are important in the creation and development of rights and laws, and their comparative study and analysis can be considered as the goals and tasks of research. For this purpose, the tasks of the research can be determined in the following provisions:

- Philosophy of right and legal science: explanation and analysis of the importance and role of the philosophy of right in legal science;
- Research and analysis of similar and different aspects of the state, right and ethical criteria in the works of Greek philosophers;
- Western philosophers' attention to the current topic (philosophy of law, law and morality) and explanation of the main reasons for this;
- Interrelationship of right and ethics: one of the main questions in the research is why philosophers claim that there is a connection between right and ethics, what is the reason for this?
- In the works of philosophers, moralists, legal philosophers and other scientists, what provisions are meant by the relationship, similarities and differences between right and ethics?
- Right and morality are different concepts, but for what reasons have philosophers, ethicists and legal philosophers paid so much attention to the subject?
- What are the main arguments in connection and in some cases separation of right and morality?
- Comparative study of the similarities and differences of right and morality, their impact on society, as well as philosophical, legal and sociological aspects;
- What is the main function of the criteria of justice, equity (fairness), conscience, customs and traditions in the existence and development of laws?
- A comparative study of the socio-political function of justice, equity (fairness), conscience, customs and traditions and, as well as their similarities and differences in the philosophical and legal aspects;
- The concept of morality and law in the philosophy of right,

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law and its types in the philosophy of right: natural (divine) and positive (human);

- Principles of morality and law, socio-political influence, interaction, similar and different aspects, comparative study in philosophical and legal aspect;

- Examining the impact of the ideas of western philosophers and legal philosophers and ethicists on Muslim scholars in this regard;

- Referring to the ideas of Muslim scientists and western scientists about the current topic and writing new works (in this direction) under the influence of this. References to those works of Muslim scholars in the dissertation;

- After the research and analysis of the dissertation topic, obtaining a detailed and complete general result of each chapter in particular, as well as at the end of the research;

- In addition to the mentioned issues, the goals and objectives of the dissertation topic are that law cannot be investigated only within the framework of legal sciences, because law as a general concept has a place in all sciences, including philosophy. Although there are similar and different issues between right and ethics, the goal of both categories is to value and protect the existing world, including human beings in all cases.

Research methods. A logical and systematic approach to the topic and comparative analysis methods were used in the research work; in the dissertation work, the philosophical-legal foundations, social-political principles and importance of right and ethics, law and morality, as well as right and society, right and state, right and politics, morality and law, justice, equity (fairness), conscience, customs and tradition, which are important features of morality the required methods, including synthesis, observation, comparison, logical judgment, systematic analysis and other methods, were used when talking about the meanings, philosophical-legal and ethical aspects and interactions of the tradition in the dictionary and the topic. Taking these into account, the methodological basis of the dissertation can be summarized in the following points:

- Although right and ethics were the subject of attention of

ancient Greek thinkers, in the Middle Ages, in the modern and modern times, along with philosophers, legal philosophers, moralists, lawyers, politicians, historians and even economists have been among the topics studied;

- The ratio of right and morality, similar and different features, theoretical and practical aspects of right and laws were studied in a comparative aspect with reference to Western and Eastern philosophy, jurisprudence, state and legal theory, international legal norms;

- Different ideas of philosophers and legal philosophers, political figures about right and morality, morality and law, characteristics of morality, their similarities and differences, and a comparative study and analysis of these ideas;

- In addition to the terminological aspects of the concepts of justice, fairness, conscience, tradition, equality and freedom, their similarities and differences, most importantly, the study of their moral, social and political effects in a philosophical, legal and sociological aspect;

- Legal and moral norms that are the basis of Christian and Islamic culture, ethical values of Islamic legal structures, socio-political significance, comparative study of similar and different issues between them;

- Giving priority to the main methodological and research results used in Western and Eastern philosophy;

- The consistency of the topics reflected in the dissertation and the clarity and fluency of ideas between them. Philosophical, moral, legal and logical studies and analyses, as well as the results obtained, are considered as one of the main methods of legal and moral philosophy. Philosophy, law, morality, law, justice, equity, conscience, tradition, state, politics, society, and their important functions are the basis of the current dissertation, which are widely studied in Western philosophy. The researcher, realizing the nature of the dissertation, its scientific and social necessity, conducted scientific research and research on it for many years and studied the topic based on the scientific evidence he formed. Based on the methods required in the research, the scientific works were

systematized in chronological order, the similar and different ideas of Western and Eastern scientists on the current topic were studied in a comparative aspect, and comprehensive and excellent results were obtained.

Main clauses defended. The following provisions are submitted for defense in the dissertation work:

- Ethics and Right: philosophy of right and jurisprudence; the influence of ethical norms in right and laws;

- Philosophical concept, essence, ethical characteristics, similar and different aspects of jurisprudence;

- Research and comparative study of state, right and ethical categories in ancient Greek philosophy;

- The main characteristics of morality related to law: the influence and function of justice, equity (fairness), conscience, tradition and traditions in rights and laws;

- Philosophical, ethical, legal meaning and role of justice, equity (fairness), conscience, customs and traditions in modern legal philosophy, as well as its function in the judicial system;

- The influence of ethical norms in the interaction of ethics and right;

- The function of justice, equity (fairness), conscience, customs and tradition in the works of modern philosophers, moralists and legal philosophers, as well as in the theory of state and right;

- Morality and law in the philosophy of right : the interaction of morality and law, similarities and differences;

- Concept of morality and law, social and political principles in the theory of positive right and natural law;

- Effect of natural laws on positive laws.

Scientific novelty of the research. Taking into account the relevance of similar and different aspects between right and morality in philosophy in Western philosophy, as well as the philosophical, ethical and legal necessity of the topic, a number of new, scientific results have been obtained in the current dissertation, which can be considered the scientific innovation of the topics presented in the dissertation:

- Defining the topic in relation to the set goals and objectives has been studied;

- The topic was studied for the first time among the analyzed scientific works by referring to scientific works as a dissertation topic;

- Important issues hidden in the works of Western philosophers and jurist philosophers were revealed and analyzed; for example, when talking about the relationship between philosophy and law, as well as law and ethics, legal philosophers paid more attention to the nature and social function of rights and laws and argued that they are only related to legislation. However, the researcher tries to prove that the rights belonging to a person are given to a person not by legislation, but by an absolute being (God);

- Another important issue is that the philosopher searches for the causes of any issue and tries to prove the issues he puts forward by referring to the practical aspects of law. The main goal here is that issues related to law should be studied not only within the framework of laws, but also according to rational sciences because law is a natural concept that arose before the writing of laws and it has a special place in all sciences, including philosophy and logic;

- Right is stable and unchanging because it is substance; but the law is constantly changing and unstable, because it is an accident;

- There are important issues in the philosophy of right and jurisprudence that cannot be limited only to jurisprudence, the history of law or the theory of law, here, the connection of wisdom (philosophy) and science (law) is one of the main conditions, as a result of which philosophical, legal, socio-political thinking is formed;

- When philosophers write the philosophy of right, and when they talk about the relationship between law and ethics, their main goal is to show the natural rights and values given to man by God. Because the existing world belongs to man, and the philosopher tries to explain the thoughts and advantages inherent to man based on rights and ethical norms, to prove the values of human existence based on logic in all cases;

- The main goal of the interaction of law and ethics is to present a person to society as a dignified person, because law examines the person, and morality forms the person;

- Comparative study and analysis of similar and different issues in the opinions of philosophers, legal philosophers, lawyers, as well as other scientists (politicians, moralists, economists, historians, etc.) about law and morality, morality and law; although some legal philosophers, including other scholars, consider law to be separate from ethics, the researcher tries to prove that law and ethics are different in terms of words, but not different in terms of goals, because social and political security cannot be controlled only by legal norms, where the existence of ethical norms is one of the main conditions;

- In the philosophy of Plato and Aristotle, the relationship between natural law and morality, the basic provisions in their similar and different aspects;

- In Aristotle's philosophy, justice and its types, (general and special, distributed and exchange, absolute and relative, natural and legal) socio-political function, similarities and differences;

- Justice, fairness, conscience, which are important characteristics of morality, similarities and differences of traditions, relationship, mutual influence, as well as legal, socio-political function;

- Matters related to rights are subject to a certain rule, but justice is not subject to a certain rule;

- The ratio of morality and law, similarities and differences, basic provisions in socio-political and ethical functions;

- There is a difference of opinion between philosophers as well as legal philosophers on the relationship between morality and law, however, the researcher, in addition to explaining the reasons for this disagreement, focuses on new issues by examining them in a comparative aspect. The new issues and scientific innovations mentioned in the dissertation are the result of a comparative study, referring to authoritative sources in different languages.

Theoretical and practical significance of research. The dissertation contains many important topics, and also creates a basis for research and analysis of these topics in various aspects in the current and future period. In addition to researching topics, the dissertation also includes extensive analysis. It is important to study the topic on scientific basis, to learn the reasons that have arisen, and to explore ways to solve the problem in this direction. At the present time, the relationship between law and moral norms, their socio-political function, is a necessary issue for the society as well as one of the important topics.

As it is known, the philosophy of right, right and ethics, law and morality and other important topics related to this have been left out of research in our country. In the study, not only philosophers, but moral scholars, legal philosophers, legal scholars, by referring to the works of scientists who have strong ideas about the topic, the topics studied and the results obtained can give a certain direction to researchers conducting research on such topics in the future, it also helps in the creation of new works. It can be important for any scientific work or conference on law and ethics. In addition, the translation and meanings of specific terms given in parentheses in the study (in English, French, Latin, Arabic languages) may be important in future works written in the field of philosophy and law.

The dissertation work and the author's research in this field may be of importance to a number of scientific centers, especially universities, as well as researchers who want to conduct research on the current topic. In addition, it can be considered useful for researchers conducting independent analyzes on the topic, dissertations, students, Western and Eastern philosophers, legal philosophers, legal scholars, scientific institutions, organizations, philosophical-legal research centers, specialists engaged in teaching philosophy and right.

Research approval and implementation. The dissertation work was jointly discussed with the "Ethics" and "Political heritage of Heydar Aliyev and Azerbaijani philosophy" departments of the ANAS Institute of Philosophy and Sociology. The main provisions and scientific results of the dissertation work:

- To the monograph. Philosophy of right. The monograph was published in Russian in 2019 by the Ukrainian publishing house "Sobornost" based on the decision of the Scientific Council of the Institute of Postgraduate Pedagogical Education of Luhansk Region (protocol No. 7 26.12.2018);

- Monograph. Legal Philosophy. Baku: European publishing house 2019;

- Dictionary book. "English-Azerbaijani legal dictionary". The dictionary was recommended for publication in "Elm" publishing house by the decision of the Terminology Commission under the Cabinet of Ministers of the Republic of Azerbaijan dated February 1, 2022.

27 (1 thesis) scientific articles related to the dissertation topic were published in the country and abroad. We mention the names of some of the journals in which the articles were published:

ANAS Institute of Philosophy and Sociology, materials of the international scientific conference dedicated to "World Philosophy Day" founded by UNESCO; Baku University news. Journal of socio-political sciences series; Baku State University, Azerbaijan Law Journal; Academy of Public Administration under the President of the Republic of Azerbaijan. Public Administration: Theory and Practice; ANAS Institute of Philosophy and Sociology "Political legacy of Heydar Aliyev and Azerbaijaniism", (collection of articles); as well as "International Journal of Islamic Thought" published by the Department of Theology and Philosophy of the International University of Malaysia and the International Society of Muslim Philosophers and Theologians (ISOMPT) outside the country (the journal is included in the database of "Scopus", "Web of Science" and other high indexes); "VIRTUS" International scientific journal, Kiev; Materials of the XLVIII International Scientific-Practical Conference. "Issues of increasing legal knowledge in the 21st century: unity of theory and practice", Russian-Kazan; "Scientific discussion", International scientific journal. Czechoslovakia (Scientific discussion". International scientific journal. "Scientific", Praha-Czech Republic); Perspectives of science and education": II International youth conference.

International scientific journal, "Slovo word" America, New York.

The name of the institution where the dissertation work was performed. The research work was carried out in the "Ethics" department of the Institute of Philosophy and Sociology of ANAS.

The structure of the dissertation and total volume. The dissertation was written in accordance with the requirements set by the Supreme Attestation Commission under the President of the Republic of Azerbaijan. Dissertation work introduction (34,169 conventional signs), five chapters (first chapter four paragraphs – 128,995 conventional sign; second chapter four paragraphs – 103,791 conventional signs; third chapter three paragraphs – 76,444 conventional signs; fourth chapter four paragraphs – 78,624 conventional signs; the fifth chapter four paragraphs - 56,957 conditional signs) the total result of the dissertation (12,031 conventional signs), philosophical and legal dictionaries (shown in parentheses), a list of literature used in eight languages (Azerbaijani, Turkish, Russian, English, German, French, Arabic, Persian) and consists of electronic resources. The total volume of the dissertation consists of 273 pages including the bibliography, 246 pages excluding the bibliography, 76,739 words and 492,105 conventional signs.

THE MAIN CONTENT OF THE DISSERTATION

The first chapter of the dissertation is called "Ethics and law: Philosophy of law and jurisprudence". *"Philosophical concept, essence and ethical features of law"* means the philosophical concept of law, the science of law and its socio-political and ethical features, the importance and role of the philosophy of law in legal science; ethical values and other important topics were studied in the theory of state and law. When we say the ratio of ethics and law, the goal here is to study jurisprudence not only within the framework of laws, but also on the basis of ethical values.

In general, legal issues fall into two important areas - will and personality, each of which is closely related to practical issues. Will and personality give rise to three main concepts in practice: *"law",*

"state" and *"ethics"*. Regarding the disagreement between philosophers and lawyers, philosophers associate the function of law more with moral norms, but lawyers claim that law is related to history, socio-political relations and social issues. Philosophers believe that law is a very strong and powerful system that regulates ethical values according to established rules; law is also the main indicator of social existence[32]. Jurists associate law more with social relations and present these relations as a system regulating: "When talking about the concept, essence, signs and functions of law, it should be taken into account that law acts as a state regulator of social relations while ensuring the free development of personality, organization and order in society[33]." Sometimes the philosophical concept of law is defined in a different form. According to the author, the most important element of the philosophical understanding of law is the investigation of law as a value from the point of view of justice. This situation gives the law the appearance of culture, shows why it is necessary to follow it internally, and also speaks of the relations of law and justice in terms of public peace, high value choice[34]. As seen from both definitions, law is not separate from practice; philosophers do not separate law from practice, but instead explain law in terms of both concept and meaning, referring to both practical and philosophical meanings.

In the current chapter, when discussing the relationship between ethics and law, one of the other important issues is the legal system and its ethical functions. The *system* is defined according to the laws and customs of each country. In general, the system consists of two or more elements covering the following three main conditions: a). Each element of the system affects all the behavior and characteristics of the system; b). There is interaction between[35]

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[32] Patterson, E. W. Jurisprudence. Men and Ideas of the Law. – New York: Brooklyn The Foundation Press INC, – 1953. – p. 431.

[33] Mammadov I. S., Suleymanov C. A. State and legal theory: 100 answers to 100 questions / I. Mammadov, C. Suleymanov. – Baku: Chasioglu, – 2005. – p. 13.

[34] Isiktac, Yasemin. Philosophy of Law / Y. Isiktac. – Istanbul: Filiz Bookstore, – 2006. – pp. 30-33.

[35] In terms of behavior and type of impact on the system.

system elements; c). Each set is composed of elements that affect the entire behavior of the system. It is this effect that at least the system is related to another set, somehow depends on it.[36] As for the legal system and its ethical functions, it is related to legal institutions; legal rules are not independent and separate from each other, each of these rules covers one of the public issues to achieve the goal. Legal organization is one of the main organizations that create ethics and family issues (marriage, inheritance, alimony and other issues). Here, a logical connection unites legal institutions and rules together, and from this set of connections the *legal system* of each country emerges.

In other paragraphs of the dissertation, "The science of law and its social, ethical and philosophical principles", "The importance and role of the philosophy of law in the science of law", "Ethical values, similar and different aspects in the philosophy of law, state and legal theory" are discussed. Before discussing jurisprudence and its social, ethical and philosophical principles, it is necessary to pay attention to legal rules. In order to give a complete definition of legal rules, first of all, after determining its principle and goal, it is necessary to know its characteristics, and to clarify these rules[37], first of all, the reasons that constitute the essence of law must be determined. The task of legal rules is not to advise and guide, but perhaps to compel; more precisely, it is always accompanied by compulsion. These rules control people's actions based on ethical norms and their implementation is ensured by the state, and also legal rules are called rulings (judgement) that guide certain actions and behavior. On the other hand, an important issue that distinguishes legal rules from public rules is that these rules are protected by the state authority and their implementation is regulated by the state. As the author also noted, the power has an influence on the creation of legal rules: one of the main regularities of the process of the creation of the state (including legal rules), its existence, and its development is the

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[36] Ackoff, R. L. From mechanistic to social systemic thinking. Cambridge. – MA: Pegasus Communications Inc, – 2000. – p. 146.

[37] Man and the rules governing his life are meant.

influence of the power on that process.[38] This is the main issue that distinguishes legal rules from public rules. After that, the task of the state is to create social stability and restore justice among people. Therefore, when determining legal rules, it is necessary to give the correct definition of law, taking into account ethical norms and the principles of the state: "legal rules guide people's behavior based on ethical norms, and the fulfillment of these rules is protected by the state".[39] An example of this is the duty of a parent to his child, that is, a person paying alimony to the mother of his child; in addition, some of these rules cover the issue of marriage, regulate the relationship between husband and wife, approve matters related to inheritance, and provide protection to the helpless and weak. As it can be seen, these issues are not only related to the law, but the observance of ethical norms is also evident here. Any ruling that legitimizes them, decides their fulfillment, all this is considered a legal and ethical rule.

Regarding *"the science of law and its social, ethical and philosophical principles",* it should be noted that the science of law is a tool in the hands of those who have the right to restore ethical values, including justice, because legal scholars try to use this science to create laws and solve people's problems. Legal science as a branch of social sciences, its main topic is to analyze social and historical events, to study the function of the rules[40] governing the society and the state. Law is not only concerned with the observation and analysis of social issues, legal science also pays attention to the management of the state, the creation of laws, their achievement of a certain goal, and the application of new ideas; as mentioned in the source, jurisprudence is a set of laws that includes ethical norms as well as the rules of living of people.[41] The main goal of

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[38] Mammadov I. State and Legal Theory / I. Mammadov. – Baku: Chirag, – 2005. – p. 223.

[39] Katouzian, N.A. Philosophy of law: definition and nature of law / N. Katouzian. Tehran: Joint Stock Company, – 2009. – vol., 1, p. 35.

[40] Rules whose existence is considered necessary for the public.

[41] Gudratullah Vahidi. Introduction to jurisprudence / V. Gudratullah. – Tehran: Mizan, 2012. – p. 14.

jurisprudence is that the laws are developed together with ethical norms in the society and bring people to the right goal. According to jurisprudence, law has two main goals; first: to create order in society, second: to restore justice among people. These two goals are inseparable.

Regarding the ethical norms in the public goal of legal science, unlike practical sciences, law not only reflects the realities, law also makes decisions based on reason; that is, all issues are analyzed based on reason. A lawyer tries to observe the ethical norms by mastering the rules and maintaining the general stability. Therefore, the main goal of law is to give importance to ethical norms not only in the public, but also among individual people, to restore and protect justice; such a goal that the state creates rules based on this goal. Philosophers and legal philosophers who study law from a philosophical aspect have tried to confirm the best theory. They consider the rules of law to be the development of the culture of each nation; the ultimate goal of law is to protect the public and ensure its development; All laws and decisions based on jurisprudence are aimed at achieving a public goal.

"The importance and role of the philosophy of law in the science of law", is that this science clarifies the understanding of laws and regulations, considers the use of legal terms necessary in any legal issue raised, plays an important role in legislation and the outlook of lawyers, and clarifies the understanding of laws and regulations. also explains the reason for the creation of anything that meets the interests of law (state, ethics, morality, politics, entrepreneurship, contract, etc.). When we say ***"Ethical values, similar and different aspects in the philosophy of law, state and legal theory"*** we should note that state and legal theory, like social science, studies the state and law together. The theory of state and law is not separate from legal science and its fields, on the contrary, it examines law and all its functions together with the state; In addition, he studies the ethical, economic, sociological, cultural and geopolitical factors that influence the development of society. That is why state and legal theory and other social sciences, including; history, political science, sociology, social-psychology, ethnology,

ethics and there is a connection between the philosophy of law. Among them, the philosophy of law, the ratio of state and legal theory occupy an important place. In the philosophy of law, philosophers examine ethical norms by relating them to law, and the theory of state and law consists of rules existing in society; whether they are inside the country or outside the country, the main goal here is to study the law, analyze the structure of the law and define the main concepts.[42] In the eyes of philosophers, ethical norms command a person internally to follow the law and consider the state as sacred, live honestly in society and be loyal to it.

The second chapter of the dissertation is "State, law and ethical categories in ancient Greek philosophy". In this chapter of the study, comparative analyzes were made with reference to the ideas of Socrates, the works of Plato and Aristotle. According to Socrates, laws were not created by humans, perhaps they were created by God for all mankind. If people turn their backs on these laws created for them, conflicts will arise in nature and this will lead to lawlessness. Virtue and goodness are useful and desirable qualities for a person, but *vice* and *vileness* lead to harm.[43] However, in Plato's eyes, legal foundations mean the discovery of the existing world. In his eyes, law is a means of discovering the real world; law is the discovery of reality; we need law to study any issue, and many issues are understood precisely through law, because law is not a set written later, but is born innately based on natural needs.[44] Furthermore, he mentions the primacy of the law as the guardian of reason and the means of guiding the mind in the right direction. According to him, public housing should be governed by the laws as a whole.[45] But unlike Plato, Aristotle talked about the

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[42] Katouzian, N.A. Philosophy of law: definition and nature of law / N. Katouzian. Tehran: Joint Stock Company, – 2009. – vol., 1, p. 25.

[43] Badawi, A.R. Plotinus among the Arabs / A. Badawi. – Egypt: Egyptian Renaissance Library, –2012. – p. 46.

[44] Cairns H. Leqal Philosophy from Ploto to Hegel. – USA-Baltimore: The Johns Hopkins Press, – 1966. – pp. 29-30.

[45] Saunders, T. J. Plato: The laws. – Translation with an Introduction. – London: Penguin Books, – 1970. – p. 28.

characteristics of law rather than its essence and meaning. He considered law as an ethical value for a citizen, and law as a special point and degree.[46] According to him, the advantage of a citizen is to make a decision in accordance with the law, and any decision made should obey the law.[47] Aristotle associates the foundations of law and law with custom; as mentioned: law is power and this power fulfills the power of custom.[48]

As for the main methods and ethical features of Epistemology in Socrates' political philosophy, it is important to pay attention to three main issues here. *First,* Socrates first talked about man and his existence in his philosophical thoughts. *Secondly,* by connecting philosophical issues with man and his socio-political beliefs, he created a basis for the study of a kind of political philosophy. *Thirdly,* Socrates divided the most important questions and principles of political philosophy into different stages, referring to the main themes, that is, the key concepts.[49] Speaking of Socrates' moral philosophy, the main goal here is not only to learn ethical values, but most importantly, to learn how to have ethical values and qualities, to build and continue life based on these values. According to the German philologist Werner Jaeger (1888-1961), Socrates' moral philosophy is based on two main components:

a). Topic and goal: In Socrates' moral philosophy, when we say topic and goal, here, the protection of the soul (psyche: the being given to man by God - spirit, soul) through the means of man, also training on the ways of this is provided.[50] The mentioned ethical norms are considered to be an important factor in making a person's life perfect. In this philosophy (moral philosophy), virtue means perfection, that is, the desired perfection of the soul.

[46] Martin, P. G. Phlosophy of Law. – USA: Prentice Hall, – 1975. – p. 255.

[47] Cairns H. Leqal Philosophy from Ploto to Hegel. – USA-Baltimore: The Johns Hopkins Press, – 1966. – pp. 140-184.

[48] Friedrich, C. J. The Philosophy of Law in Historical Perspective. – Chicago: The University of Chicago Press, – 1969. – pp. 25-26

[49] Jan Patočka. Socrates: Being aware of ignorance / P. Jan. – Tehran: Hermes, – 2000. – p. 9.

[50] Jaeger, Werner. Paidia. The third volume / W. Jaeger. Translated by Mohammad Hasan Lotfi Tabrizi. – Tehran: Kharazmi, – 1997. – pp. 266-269.

b). Beginning and direction: The beginning and direction of Socrates' moral philosophy is to recognize the virtues.[51] It is as a result of this recognition that the path to virtue - ethical values opens; to put it more clearly, if people know what good and approved actions mean and think deeply about it, they will naturally choose good and approved lives and continue in this way. Therefore, it is impossible for *vice* and *vileness* (vileness. Socrates calls it akrasia - ακρασία) in the moral philosophy of Socrates and in the ethical behavior that he introduced to us. However, the main direction in Socrates' moral philosophy is *to be oneself* (Socrates calls it *enkaratia* - ακερατέα), *to know oneself,* which is related to the concept of freedom within a person. Encaratiya (*being one's self*) is opposed to political freedom, while the common desire of the state leadership, i.e. the rule of law, is the preservation of political unity.

In other paragraphs of the present chapter, "Ethical characteristics, similarities and differences of the concepts of ideal state and natural law in Plato's philosophy", "The ratio of natural law and morality in Aristotle's "Ethics of Nicomacheus", "Public law in Ancient Rome and its main directions" were studied. Here, Plato mostly highlighted issues related to the ideal state and natural law. It should be taken into account that in Plato's political philosophy, politics and ethics are not separate from each other, he was trying to find an answer to the question of how a person should live. For this, he thought deeply about humanities, all issues related to ethical characteristics, political systems and justice.

Regarding the concept of natural law and justice in the ideal state in Plato's philosophy, he associates the existence of the ideal state with the observance of the principles of natural law, and this is mostly reflected in his work called *"Laws"* (Νόμοι, Nómoi). According to him, the best laws and ideal states are those laws and states that have fewer defects and deficiencies and are more connected to natural law and the ideal state.[52] Therefore, the

[51] Seyyed Mahmud Nejati Huseyni. Rereading Socrates' Political Philosophy / N. Seyid Mahmud. – Tehran: Political science research, – 2007. – No. 2, p. 80.
[52] Plato. Phaedo, in H. Tredennick trans., in E. Hamilton and H. Cairns eds., The Collected Dialogues of Plato. – Including the Letters Princeton, Princeton

example of "goodness" considered necessary in an ideal state by Plato is the most important and popular example, which is considered superior to other examples in terms of ethics, epistemology, ontology, and justice. Because in her view, the best person is that person who performs good deeds in his life and has better deeds.[53] A just person with ethical values avoids evil and unacceptable actions, brings himself to the level of individual and social perfection, and by having "good" actions creates an example of a genuine, just person *(ideal person).* In the ideal state based on Plato, "law" and "justice" do not contradict each other. Therefore, in Plato's thought, the contradictions between law and justice are the result of the contradictions between those entities in the material world.[54] Adhering to justice, being fair, protecting and fully completing the ideal state are the highest indicators of ethical values and morality.[55]

Here, another important topic is ***"The ratio of natural law and morality in Aristotle's "Ethics of Nicomacheus".*** It should be noted that the main concept of Aristotelian ethics is *happiness, achievement and success.* In this work, he is looking for the best qualities - goodness (suprem good). Morality, on which it is based, is a characteristic that only a person must create and apply in himself; i.e., these qualities should not be acquired by other means, they should be in a person. It should be noted that Aristotle's theory of natural law and ethics differed completely from Plato's ideas in some cases. The main difference here is that Plato associated his philosophical theory with the ideal theory (ideas) related to

University Press, – 1961. – pp. 48 & 49, 65d-66a; 74d-75a.

[53] Gerasimos S. The Form of the Good in plato's Republic. – İn G. Fine ed., Plato I Metaphysics and Epistemology. Oxford Univeirsity Press, – 1999. – pp. 247 & 248.

[54] Friedrich, C. J. The Philosophy of Law in Historical Perspective. – Chicago: The University of Chicago Press, – 1958. – p. 17.

[55] Pashayeva A. N. The ratio of ideal state and natural law in Plato's philosophy, ethical characteristics, similarities and differences // – Baku: Baku State University, Faculty of Law. Azerbaijan Law Journal, – 2022. No. 1, – pp. 32-35.

ontology, but Aristotle denied this theory and strengthened his philosophical-political and ethical theory on the basis of four doctors, which are: material, formalis, subject and goal (final, cause, ultimate). In addition, he paid special attention to the main goal (final, cause) in the creation of the existing world[56]. Aristotle's theory of natural law and morality rests on a strong nature (intense nature); that is, it is based on the reasons that there is a purpose or goal in the creation of all beings in the existing world.

Regarding *"Public law in Ancient Rome and its main directions"*, the Romans divided the law into three main parts. *First:* public law – civil law intended for citizens in a certain society (civil law); *second:* special right - rights (human rights) intended for all citizens of society (including foreign citizens) at a certain time; *third:* immutable and always fixed rights (natural law). The distinction between public (general, civil) and private law in Roman law was first made by one of the famous Roman lawyers, *Domitius Ulpianus* (born 170 b.c., died 223 or 228 b.c.,) in the "Digest" (Digest: one of the three books collected on public law during the time of Justinian; Digest, Codex, Institutes) one was mentioned in the preface of the book[57].

One of the important issues in Roman law is the invisibility of *ethical values,* because in Roman law, moral categories (justice, fairness , conscience, equality, etc.) are implemented within the powers of the authorities, these categories are not indicated separately. The reason is that ancient Roman traditions mainly focused on issues of authority, power, and authority; ethical and moral issues did not play a major role in the management of power, therefore, there were serious differences between power and law. It is for this reason that it is impossible to find the *concept of Roman law and ethics* when studying ancient Roman law.

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[56] Werner J. Aristotle, Fundamentals of the History of His Development. Translated in Richard Robinson. – Oxford, Clarendon Press, – 1934. – p. 171.

[57] Berger A. Encyclopedic Dictionary of Roman Law. – Philadelphia: American Philosophical Society, – 1991. – p. 750.

The third chapter of the dissertation is called "The main characteristics of morality related to law: justice, fairness, conscience, customs and traditions". The current topic is of great importance in the field of philosophy and law, as well as in the function of legislation. Here, referring to the ***"ethical, philosophical and legal meaning of the criteria of justice, fairness, conscience, customs and traditions in modern legal philosophy",*** we came to the conclusion that morality is a set of rules necessary to do good, to be virtuous and to reach perfection, and most importantly, to form us as a wise being; through morality we get the criterion of what is good and what is bad. Morality is a force related to human will, that is, acceptable and unacceptable actions; the main issue here is a person's will, mind and action. Justice, which is a chosen feature of morality, has a special place in the perfection of man: "Justice is an original idea and a decided method that defines the meaning of the right, demands respect and compliance with it".[58] Justice is established when any person does what he can and refrains from interfering in the work of others. In addition to justice, *fairness* and *conscience* have a special function here. Philosophers and jurisprudence philosophers have attributed fairness to the general principles of law and stated that it consists of two parts: *first,* fairness has a special effect on the general principles of law, that is, it forms the essence - the basis of legal principles as a kind of inspiring force of legal instructions.[59] *Second,* equity (fairness) can be independently stated or applied as a general principle of law.[60] Fairness is shown as an authoritative concept, that is, a concept that has wide authority in the judicial power and creates a guarantee of

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[58] Muhammad Meskawiyyah Al-Razi. Purification of morals / R. Meskawiyyah. – Beirut: Dar al-Maktaba al-Hayat, – 1991. – pp. 34, 53.

[59] White Margaret. Article. Equity-A General Principale of Law Recognised by Civilized Nations? – Queensland Uneversity of Technology Law and Justice Journal, – 2004. – pp. 105-108.

[60] Ansieh Mutii and Masoud Alburz Waraki. The principle of equity: a comparative study of the principles of justice and equity // – Tehran: Comparative Law Research, – 2018. No. 3 (22), – p. 141.

execution.[61] When we say the public principles and authority of fairness, it is related to the decisions made by the court and judges, the judge's free thinking; the judge must make a correct decision without making any distinction between the parties and observe fairness in his decision. However, when it comes to the philosophical, legal and social principles of *conscience,* conscience is more of an internal and spiritual feeling, a concept that recognizes good and bad deeds; Conscience prompts a person to do what is necessary (should be) and prevents him from what is forbidden (should not be)[62]. Conscience, as one of the important characteristics of morality, controls the sense of responsibility in a person and how and in what form this responsibility is fulfilled; that is, a person strives based on his conscience to perform his duties with dignity, correctly and in the required form.[63] Conscience is a feeling related to psychology, thinking, and soul, all of which together determine a person's ratio of good and bad deeds. A person with reason and conscience constantly calls for righteousness and good deeds, because the lawfulness of human behavior is based on two main aspects - ethics and law. The moral criterion of human behavior is based on conscience; in other words, man is considered to be a moral being due to his conscience. As for the formation of conscience, it is said that the influence of laws and prohibited means is here. According to Freud, conscience is formed in a person based on laws and prohibited means.[64]

In modern legal philosophy, along with justice, fairness, and conscience, custom and tradition also has a special place. Custom and tradition are the habits that spread and are constantly observed

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[61] George, P. F. American Law in a Global Context the Basics. – Edited by Steve Sheppard, New York: Oxford University Press, – 2005. – p. 353.

[62] Misbah Yazdi, Mohammad Taghi. Moral hilosophy /M. Misbah Yazdi. – Tehran: Information, – 1995. – p. 83.

[63] Pashayeva A. N. The ratio of ethics and law: The legal, socio-political function of the principles of law, justice and conscience in ethical and social obligations // Ganja: ANAS Ganja Department. News Roundup. "Social and humanitarian sciences" series, "Elm" publishing house, – 2023. No. 1 (5), – p. 155.

[64] Marzia Asterki. How conscience is formed and sustained // Tehran: Cultural Engineering Quarterly, – 2009. No. 31-32, – p. 71.

among the masses, both in practice and in words.[65] It should be noted that before the establishment of the legislature the right has existed; before the legislative body established legal norms, it manifested itself in the form of customs and traditions among people. The conclusion reached by some sources points to this: "customary law norms, which are the ancient source of law, and these norms, which were necessary later, were established in the Egyptian legislation.

Some of these norms were kept in later periods as well."[66] From the point of view of law, custom and tradition are unwritten rules that arise from the will of people as general, special, permanent and independent, and there is no activity or role of the state in their creation. but it must be officially recognized by the government to be enforced in courts.[67] Legal philosophers consider custom and tradition to be one of the sources of law, along with law, judicial process, and legal doctrine. Customs and traditions are considered one of the main sources of official recognition of civil rights, both ethically and by approving laws.

In other paragraphs of the third chapter deal with "Ethical characteristics, similar and different aspects of the criteria of justice, fairness, custom and tradition", "Interrelationship of ethics and law and socio-political influence". Justice, fairness, conscience, custom and tradition the main characteristics of ethics related to law. These criteria, in addition to being ethical characteristics, in jurisprudence, although they are compatible with each other in all areas of law, they sometimes have different characteristics.

As it is known, the most important feature of ethics related to law is justice, because the purpose of law is to restore justice and order in society. Both of these (justice and order, discipline) are ethical pointers.

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[65] Muhammad Moin. Dictionary book. / M. Muhammad. – Tehran: Zarrin, – 2017. – p. 1000.

[66] Malikova M. Nabiyev E. State and legal history of foreign countries / M. Malikova, E. Nabiyev. – Baku: Science and Life, – 2005. – p. 26.

[67] Mazeaud L, Jean et Chabas Francois; par Chabas François. Leçons de droit civil, İntroduction a l'etudedu droit, t 1, v.1, 12 ed. – Paris : Montchrestien , – 2000. – p. 85.

As for the similar and different aspects between justice and fairness, it can be explained in the following paragraphs:

a). Sometimes the principles of justice are dry and harsh. According to the master, "justice reduces dryness and harshness in the law, and sometimes completely removes it, changes people's misconceptions about authorized representatives (judge, lawyer) and restores people's confidence."[68]

b). One important thing to consider is that the judicial system and judges are more inclined towards justice than fairness, that is, they are based more on justice than fairness. Because it is difficult for courts and judges to say that the solution of the issue is *fair*, and they try to justify themselves by saying that it is solved only by *legal means*. The main conclusion reached by the philosophers is that the lawyer should skillfully use his authority and scientific potential to adapt the dry, strict and complex rules related to law to justice.[69]

c). When talking about the similar and different issues between justice and fairness, it would be interesting to pay attention to the views of John Rawls (1921-2002). John Rawls explains the similarities and differences between justice and fairness as follows: "justice, as fairness, in its intended form, is primarily consistent with justice, but this does not mean that justice and fairness are both the same concepts; the principles of justice are achieved as a result of agreement or fair effort".[70]

Regarding the ratio of fairness and justice in the Islamic religion, as well as its similarities and differences, fairness and justice from the point of view of the Islamic religion apply to a number of issues, some of which we point out:

1. The religion of Islam insists on treating people who are hostile

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[68] Katouzian, N. A. Principles of law: general theory / Katouzian, N. A. – Tehran: Publishing Company, – 2015. – pp. 582 & 583.

[69] Bahauddin Khorramshahi. Religion and ethics, culture and religion: selected articles of the encyclopedia of religion / Kh. Bahauddin. – Tehran: Tarh-e nu, – 1995. – p. 361.

[70] John Rawls. The theory of justice /R. J. – Translation: Seyyed Mohammad Kamal Sarwarian and Morteza Bahrani. Tehran: Research Institute of Cultural and Social Studies, – 2009. – pp. 44 & 45.

to Muslims (kafir) with fairness and justice: "Allah does not forbid you to be kind and to act justly to those who have neither made war on your religion nor expelled you from your homes. Allah loves the just".[71]

2. Adherence to fairness and justice it is insisted that: "and when you judge between people you judge with justice ".[72]

3. The Holy Quran tells us to be fair and just in dealing with Jews and Christians: "yet they are not all alike. there are among the people of the book an upstanding nation that recite the verses of allah (the koran) throughout the night and prostrate themselves".[73]

4. It is recommended to be fair and just towards the People of the Book. The fact that "Torah" and "Injil" were revealed in the Holy Qur'an, accepted and believed by Muslims is an indication of fairness and justice: "He has sent down to you the book with the truth, confirming what preceded it; and he has sent down the torah and the gospel (of prophet jesus which has been lost)".[74]

5. Observance of fairness and justice between spouses: "if you fear that you cannot act justly towards the orphans, then marry such women as seem good to you; two, three, four of them. but if you fear that you cannot do justice, then one only, or, those you possess. it is likelier then that you will not be partial".[75] Islam recommends being fair and just not only to Muslims, but also to non-Muslims, all of which are the interplay and relationship of law, ethics and moral norms.

When we talk about the ethical characteristics, similarities and differences of customs and traditions, it is shown that there are more moral differences here; tradition is related to custom in all cases (except for necessary conditions); custom means not only social habits, but also rules, but tradition is presented as a general concept. In most cases, tradition in a certain environment creates any rule over time, and that rule gradually develops and turns into a custom,

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[71] Holy Quran, 60/8 (The translation of all verses in the dissertation and abstract belongs to the author of the dissertation).
[72] Holy Quran, 4/58.
[73] Holy Quran, 3/113.
[74] Holy Quran, 3/3.
[75] Holy Quran, 4/3.

a tradition. That is why in many cases custom is shown as rule and habit - tradition. In contrast to tradition, duties and obligations in custom are closed, that is, they do not manifest themselves openly, and they are fulfilled during the process. Of course, despite the fact that customs and traditions are similar and different, all of them are considered to be the main sources in the formation of the relationship between law and ethics.

When talking about the **"interrelationship of ethics and law and social-political influence",** we have tried to first define the types of moral concepts related to ethics and law. These include: the highest morality, public morality and state morality. If any person is based on the *highest morality,* then morality must have qualities superior to the human will. The main goal of the highest morality is that it determines the duties of the person and avoids disputes. But when it comes to *social morality,* it means being aware of customs. Adherents of this belief consider what they accept as ethical and what they do not accept as unethical. The good thing about this approach is that issues related to ethics get a new situation, that is, they are constantly updated. Another type of morality, *state morality,* is related to accepting issues related to the public.

The fourth chapter of the dissertation is "Interaction between law and ethics". In this chapter of the study, ***"Similar and different aspects of law and moral rules", "Criteria of justice in ethical and legal issues "*** are studied not only from a philosophical but also from a legal aspect. First of all, it should be noted that morality leads to superior human values by eliminating any defects in the implementation of laws, which is one of the basic conditions required in the rules of law. It is in such a situation that there are similar and different aspects in the rules of law and morality. Some of the philosophers, while talking about the similar and different aspects of law and moral rules, looked for the way to achieve the goal in observing the moral rules, and the other part in the perfection of the person. Morality consists of effective, efficient rules and norms for a person to achieve advantages (virtue). By using the authority of the law, it protects a person's life, property and freedom from aggressors, but moral rules (norms) at the first stage guide

people to be wise and avoid evil. The main goal of law is the social welfare of people, which is regulated by the state and ensured through legal rules. But the ultimate goal of morality is eternal happiness and moral perfection, which has a wider scope than social affairs. In such a case, there is an interaction between morality and law, but in some cases it is also possible to have a separation. Legal rules are binding, and legal obligations are binding even if people do not accept them, but the duties related to ethics are not mandatory, perhaps they are related to the internal forces present in this person (justice, fairness, conscience, bravery, shame, etc.) and that is why they cannot be considered mandatory.

When we say ***"Criterion of justice in ethical and legal issues",*** we must not forget that justice is such a concept that existed in human consciousness and language even before it was created. There were no words in the language to explain this concept, nor was the exact meaning clear, but in later periods of history justice was recognized as a term. According to philosophers, justice is the best criterion of values, the most important goal of life; it is impossible to live unfairly, if a general norm is used in any issue, it is considered unfair if the same situation is not used in another place, that is, that general norm is considered unfair from its value. Actions that do not belong to the will, character, human nature (instinct) (whether good or bad actions) do not belong to any desire and inclination, then these actions cannot be considered as an ethical feature, and it is difficult to determine the criterion of justice here. As for the criterion of justice, justice is a special concept related to ethics. The rules of justice are not innate (natural), fixed, and cannot be determined by the power of reason alone; religious beliefs, feelings and emotions also have a special effect here.

However, if we pay attention to the criterion of justice according to Islamic law, it becomes clear that the last of the divine structures is the Islamic legal structure, and this structure refers to the Holy Quran, Sunnah, Reason and Community (Ijma). Islamic legal structures are primarily based on religion and spirituality; that is, the Islamic legal system is divine and religious. Because it was brought by a divinely chosen prophet and not by ordinary leaders.

One of the other characteristics of the Islamic legal system is that it is *based on reality, very comprehensive and public.* In this structure, the legislator is God. He has complete knowledge of all categories of human existence (i.e. the science of man, his relationship with the universe, etc.). Another characteristic of this structure is that it is complete and perfect; that is, the fact that Islamic law is real indicates that it is a *complete and perfect* law. One of the other important features of the Islamic legal system is its emphasis on *unity and cooperation.*[76] In the legal system, the various rules of the legal structure based on unity and cooperation complement each other. This set of systems is combined into a single system referring to the Islamic worldview, as well as the social and personal structures of Islam.

   Other paragraphs of the fourth chapter are called "The concept of justice in the works of modern philosophers, moralists and legal philosophers", "The place of the concepts of justice, fairness, conscience, customs and traditions in the theory of state and law". In the present paragraphs, referring to the works of modern philosophers, moralists and lawyers, we have studied and analyzed not only the philosophical, legal, socio-political aspects of the concept of justice, but also other superior and different features. Although the topic is related to the modern era, we have tried to give a brief look at the concept of justice based on the modern (new) era along with the modern era. In this period, the English philosopher Thomas Hobbes was the first to define the concept of justice. Unlike the scholars before him, he did not propose a new concept when talking about justice, but he put forward his terminological ideas about the concept of justice. In his work entitled *"Leviathan"* (Thomas Hobbes: Leviathan, 1651), he defines justice, which he calls the third law of nature, as follows: "the concept of justice, that is, people perform the concluded contracts."[77] In the views of Hobbes, justice is not only about rights and laws, but most

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[76] Abdullah Javadi Amuli. Right and duty in Islam / A. Abdullah Javadi. – Tehran: Esra, – 2013. – pp. 210 & 225.
[77] Thomas Hobbes. Leviathan. – ed. by C. B. Macpherson, Harmondsworth: Penguin Books, – 1968. – p. 202.

importantly, it also covers social and political issues. Meanwhile, not only Hobbes, but also Leibniz (Gottfried Wilhelm Leibniz: 1646-1716) was satisfied with special expressions, not a new concept of justice. In Leibniz's view, the concept of justice is nothing but wisdom and goodness: "being wise and kind to others causes others to be motivated to do the same".[78] It would be useful to pay attention to John Stuart's ideas about the concept of justice. The famous English philosopher and political economist John Stuart Mill (John Stuart Mill: 1806-1873) defines justice in a simple way: justice means *"conformity to law",* and injustice means *"disturbance of law".* When talking about the concept of justice, the English philosopher and economist Henry Sidgwick (Henry Sidgwick: 1838-1900) divides justice into two important parts: to establish the rule of law in the broadest sense of justice, and the other means to conform all activities to the law in question. According to him, justice is the application of law without discriminating between people on the basis of wealth, influence or any other characteristics.[79] In general, despite the disagreement, the general conclusion is not that different, that is, justice is accepted as the main function of both law and ethics.

"The place of the concepts of justice, fairness, conscience, customs and traditions in the theory of state and law" means that the state includes features related to ethics. Therefore, when we say the duties of the state and the law, we should not forget the ethical values, because the duties and obligations of the state and the law are performed according to ethical rules. If moral norms are forgotten or ignored in any matter, it will not be possible to achieve the social goal.

One of the most important issues in the theory of state and law is the principles of social justice in John Rawls' theory of justice (John Rawls: A Theory of Justice). In the eyes of American political philosopher and moralist John Rawls, the concept of social justice

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[78] Gottfried, Wilhelm Leibniz. Leibniz: Political Writings. – Editor Patrick Riley. Cambridge University Press, – 1988. – pp. 53-57.

[79] Henry Sidgwick. The Methods of Ethics. – Hackett Publishing Company; 7th edition, – 1981. – pp. 267 & 268.

and its principles have a different character. Considering the social principles of the concept of justice as the basis of political philosophy, he stated that there are differences between individual justice, justice of the law and justice of social institutions.[80] When talking about social justice, Rawls first explained the theory of distributive justice by stating that there is a difference between "allocative justice" and "distributive justice". According to Rawls, *distributive justice* requires that good things be distributed among people according to their known needs and desires. In contrast, *distributive justice* is the distribution of good and desirable things among those who have played a role in bringing them about, each of whom has a legitimate claim to his share before the distribution. According to Rawls, social life is a system of cooperation between individuals and all share in the benefits of social life, where each individual has a share. Distribution of benefits in social life is one of the main issues of *distributive justice.*[81]

Along with *justice, fairness, conscience, custom* and *tradition* have a special place in the theory of state and law. International law and ethics specialists point out that fairness, which is one of the principles of justice, is Article 38, clause 1 of the *Statute of the International Court of Justice*. Georg Schwarzenberger (Georg Schwarzenberger: 1908-1991), a German lawyer on international law, writes about this: "applied studies show that justice, fairness and other superior features of ethics are recognized as general principles of law in the main legal systems of the world. Understanding and paying attention to this superior feature in international law, that is, fairness, is used as a tool by the *International Court of Justice.* [82] Regarding the influence of *conscience* here, besides creating pure and clean emotions in a person, conscience is also the main indicator in legal and ethical norms. Conscience is a very powerful and influential force that

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[80] John Rawls. A Theory of Justice. – Oxford: Oxford University Press, – 1999. – pp. 6 & 7, 53 & 54.

[81] İbid, – pp. 73-77.

[82] Schawrnzenbergr G. Equity in International Law: İts Growth and Development. – Yearbook of World Affairs, – 1972. – p. 346.

exists in legal norms not only to meet and overcome the needs of the individual, but perhaps to enable people to live at a higher level. As the author writes: "conscience instills in the masses that man is a conscious being and plays the role of the foundation of law".[83] One of the advantages of conscience is that it examines itself in relationships and has the power to make self-judgment. In the legal system, as well as in the formation of civil rights, along with fairness and conscience, *custom* and *tradition* also have a special function, because all legal norms are for the development, improvement, recognition of social, political and cultural rights of a person, and living as a worthy citizen in both private and public life. National values exist here; national values are the culture, custom and traditions of society, which have an immense influence on the formation of civil rights, making them brighter and more developed, and even changing them.

The fifth chapter of the dissertation is called "Morality and law in the philosophy of law". In this chapter of the research, we have tried to explain the concept of morality and law, the ratio of man and law, the superior aspects between law and nature, the issues necessary for man, as well as the social function. When we say ***"The concept of morality and law in the theory of positive law", "Law and its types: natural (divine) and positive (human)",*** we must first note that the law, which has a long history, has been obeyed in all times; people considered obeying the law as an ethical, social duty and tried to create the law as a system to control human behavior. Not only philosophers, but also jurists are divided into two groups in order to determine the concept of morality and law, their socio-political influence, and their relationship to each other: *the first group* accepted the relationship between morality and law and insisted on the existence of ethical values at the root of law; *and the second group* rejected the connection between morality and law. According to the opinion of the first group, there are two types of laws: natural law, that is, the law related to ethical norms or the best

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[83] Muhammad Aghayan Huseyni. The role of "conscience" in the creation of law // Tehran: Journal: Jurisprudence, – 2020. No. 12 (Issue 3), 2020. – p. 53.

law; the other is positive law (law written later, studied later) which has its roots in natural law. In order for these norms to be legal or reliable, not only the will of the legislative body and the public acceptance of positive norms are sufficient, perhaps it is important to harmonize these norms with morality and that natural law. However, the conclusion *of the second group* is that positive law is a set of norms accepted in a certain society, the creation of which is related to legislation, not to ethical norms; positive norms become law based on the will of the legislative body and public agreement and gain legitimacy, becomes legal. Positive norms can be considered authoritative law even without any relation to ethical values. In this group's view, positive laws are not based on ethical values, but on the will of the authorities and the consent of the general opinion. That is why the theory of the first group is called *"Theory of Natural Law",* and the theory of the second group is called *"Theory of Positive Law".*[84]

Regarding the positive law, the positive law theory, which is considered to be the opponent of the natural law theory, is also called human law. Proponents of positivism insist that positive law does not correspond to natural law either in form or in content.[85] According to philosophers, the theory of positive law can be divided into several periods, one of which is the period of traditional positivism. This period refers to the works of the English philosopher and lawyer *Jeremy Bentham* and the English legal theorist, legal philosopher *John Austin.* Bentham mentioned the theory of human law in his work *"General of Law",* and John Austin in his work *"The Province of Jurisprudence Determined".*[86] When talking about the theory of positive law, Austin drew more attention to the issue of the separation of ethics (morality) and law. When he

[84] Abul Qasim Fanai & Davud Nujavan. The role of ethics in legislation from the perspective of legal philosophy // Tehran: Journal of Comparative Law, – 2020. – No. 2, p. 274.

[85] Tebbit Mark. Philosophy of Law: An Introduction. – London: Routledge. Oxford University Press, – 2005. – p. 10.

[86] Brian Bix. A dictionary of legal theory / B. Brian. Translated into Persian by: Mohammad Rasek. – Tehran: Ney, – 2015. – pp. 54-56.

defined the law, he called it *"command theory":* "the law consists of commands that govern society."[87] Contrary to natural law proponents, he argued that there is no necessary connection between morality and positive law; the law may be against morality, but it is valid from the point of view of law.

Another famous representative of the theory of positive law is the English legal philosopher *Herbert Hart.* He disagreed with Austin's radical positivist views and criticized his approach to this issue. Hart, a supporter of the theory of positive law, did not accept that the law should be defined as a commandment. According to him, Austin and his colleagues did not pay attention to this issue, that is, the orders issued by official bodies are not valid and binding in themselves, perhaps the validity of the orders is related to higher norms.[88] From Hart's views, it can be concluded that he tries to reconcile the theory of positive law with officially recognized criteria for legislation by society. To justify his opinion, he distinguishes the legal force of the law from moral norms and believes that the law that violates social rules should not be obeyed. Despite the claims of supporters of positivism, some philosophers and legal philosophers have insisted on the influence of natural law on positive law. According to *Thomas Hobbes,* human law, a special type of later written law, must be derived from independent or non-independent natural law. Therefore, if human law is contrary to natural law, it cannot be called law, and it is considered illegal; no law, not even the sacred law (communicated to man through revelation) can contradict the natural law. Because if God approves a law that contradicts moral principles, then we will face contradictions.[89]

One of the prominent representatives of the theory of natural law is the Dutch jurist, political philosopher and statesman *Hugo*

[87] David Lyons. Ethics and the Rule of law. – New York: Cambridge University Press, – 1984. – p. 37.
[88] Dworkin, M. R. The Model of Rules. – The University of Chicago Law Review, – 1967. – vol., 35, No. 1. pp. 17- 22.
[89] Hasan Jafari Tabar. Commentary on the philosophy of law / J.T. Hasan Tehran: Publishing Company, – 2010. – pp. 45 & 46.

Grotius. Hugo connects natural law with rational and religious (transcendental) methods. In his view, natural law is based on divine existence, although natural law is related to religious practices, which does not necessarily mean religious beliefs.[90] *Lon Fuller* (Lon Luvois Fuller: 1902-1978) was an American legal philosopher who advocated the secular and procedural form of natural law theory. He considers natural law to be *"legal justice"* or *"justice according to law."* According to this theory, the enforcement of a morally cruel law is considered procedurally fair even if the outcome in a given case is considered to be substantively unjust.[91]

Another famous Australian jurist who discusses the influence of natural law on positive law is the philosopher *John Finnis* (John Finnis: 1940). John Finnis insisted that, unlike positive law, the content of natural law is more influenced by moral norms. "Basic goods" and "basic conditions" express the principles of natural law, which also manifests itself in human (positive) law.[92] Of course, there must be diversity of opinion in natural and positive law, but despite the diversity of opinion, some general principles form the basis of this doctrine: *first,* these basic principles are not subjective, but objective; *second,* as the word "natural law" suggests, it is related to the nature of the world, human nature, or a combination of the two; *third,* natural law is not created by man to be changed, perhaps it is a perfect document provided by the *human mind* for a better life, based on human nature or the nature of the world.

Other paragraphs of the study are called "Interrelation between morality and natural law", "Social-political principles of morality and law". When we say the interaction between morality and natural law, that is, these two concepts (morality and law) are both high privileges given to man by God to value human existence

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[90] Largee Jacqueline. Grotius: Natural Law and Natural Religion. In book: Religion, Reason and Nature in Early Modern Europe. – Dordrecht: Kluwer Academic Publishers, – 2001. – vol. 180, pp. 20-22.

[91] Brian Bix. A dictionary of legal theory / B. Brian. Translated into Persian by: Mohammad Rasek. – Tehran: Ney, – 2015. – p. 66.

[92] Finnis John. Natural Law and Natural Rights. – Oxford: University Press, – 2011. – pp. 85-89.

(soul and body). This privilege has mental and physical aspects as well as natural requirements. According to natural law, morality is part of existing natural entities. Morality is a carrier function in natural law; moral norms are insisted on in all the requirements of the natural law.

Regarding the ratio of ethics and natural law in the Christian religion, after the appearance of the Christian religion, the interest in the natural law increased even more; ethical norms based on natural law were adapted to the Christian worldview. According to Christianity, God is an absolute being who is omnipotent, omniscient, and the creator of all things. God reveals his will to us both through a divine revelation and through natural law. Through revelation, He tells us some things directly and plainly through revelation, otherwise we cannot understand them with and without the help of our limited mind. The relationship between ethics and natural law in the Christian religion is explained in detail in Thomas' work *"Aquinas's moral theory"*. The famous Christian theologian and philosopher Thomas Aquinas defines morality as *"the order of human actions"*. His theory of natural law based on ethics was raised in the theological space. Thomas believes that man has a natural inclination to goodness based on the common nature between himself and other creatures. In fact, his main goal is using natural law, was to explain revelation and divine laws in a theoretical aspect in society; he sought to present a complete theory of the role of revelation and its relation to reason. The Italian thinker tried to revive the traditional theory of natural law to define the relationship between mind and spirit. He introduced a new form of natural law theory for a deeper study of Aristotelian ethics in the context of a Christian worldview.[93]

As for the relationship between man and law, we should note that man as a real being is the soul, and the body performs the derivation process. Natural law is sometimes related to human nature, and sometimes to innate (native) requirements. When it

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[93] Thomas, Aquinas S. The Summa Theologica. – Translated by Fathers of the English Dominican Province. Westminster, Md: Christian Classics, – 1981. – p. 1332.

comes to the relationship of man with nature, that is, in the theory of natural law, human happiness is emphasized, because the rights given to man are first of all given naturally by God; rights do not arise later, but from the time of creation of man with him. Each entity must benefit from the rights that belong to it in accordance with the requirements of the law; it is his natural right. In many verses of the Holy Qur'an, the rights of all living things are shown along with nature. Let's focus here on the *right to live*: "and do not kill yourselves. allah is the most merciful to you"[94]; another verse shows the *inviolability of human dignity* and Islam considers man a valuable being: "we have honored the children of adam"[95]; "We created man in the most beautiful way"[96] and other verses can be cited as examples, which serve to protect human existence within the framework of the law.

Valuing human existence is also reflected in the Constitution of the Republic of Azerbaijan (human rights). These rights include "right to life" (Article 27), "right to liberty" (Article 28), "right to property" (Article 29), "right to marriage" (Article 34), "right to work" (Article 35), "social right to security" (Article 38), "right to health protection" (Article 41), "right to education" (Article 42), "right to protection of honor and dignity" (Article 46), "freedom of conscience" (Article 48) and other rights an example can be given. These rights and privileges apply to all people, regardless of their identity, nationality, religion, language, or race.

Regarding the ***"Social-political principles of morality and law",*** we should note that legal norms are created on the basis of social groups, and of course, these groups also have tendencies to regulate social relations on the basis of laws and rules. That is why legal norms together with morality and law are an important indicator for regulating socio-political relations. Laws, whether commanding or restrictive, are based on morality, and this can also be called *moral legislation*. Moral legislation is not an option, but an inescapable necessity; Ethical features such as justice, equality

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[94] Holy Quran, 4/29.
[95] Holy Quran, 17/70.
[96] Holy Quran, 95/4.

(fairness), conscience, issues related to the state and where laws should apply to people reflect moral legislation. Along with supporters of moral legislation, we face opponents. It was *Joseph Raz* (Joseph Raz: 1939-2022), an Israeli philosopher of law, ethics and politics, who was one of the main proponents of the theory of positive law. He did not accept the ratio of morality and law, but stated that they are different. In his view, the legitimacy of the law consists of three main elements: that opens the way, institutionality and resources.[97] However, Joseph Raz forgets that the existence of ethical norms is the main condition in the creation and development of laws. These were found in the theory of positive law written before Joseph Raz.

When talking about social and political principles of morality and law, it should be especially noted that justice is the pillar of law. German politician, legal philosopher Gustav Radbruch (Gustav Radbruch: 1878-1949) wrote about unjust laws: "some laws can be so unjust and socially harmful that even their essence as law must be denied."[98] This suggests that the presence of justice is a prerequisite for the existence of law; justice is a pillar of the law, but also has an important influence on social and political issues. That is why the *legitimacy of laws* and the *essence of laws* are of great importance in matters related to justice. In any case, despite the fact that there are various different approaches, the general result is that right and ethics, right and morality, morality and law, justice and law and their relation to each other are the main conditions not only in the development of laws, even as a basic condition for its creation, it is also a function bearer.

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[97] Raz Joseph. The Authority of Law: Essays on Law and Morality. – Oxford: Oxford Univeristy Press, – 2009. – p. 42.

[98] Andrew Altman. Introduction to the Philosophy of Law / A.Andru. Translated into Persian by: Behruz Cendeghi. – Tehran: Educational institution, – 2007. – pp. 116 & 117.

CONCLUSION

In the concluding part of the dissertation the main conclusions of the research were reflected, the topics proposed and studied in the chapters were analyzed with reference to reliable sources, certain conclusions were reached at the end of each paragraph. Regarding the general conclusion of the dissertation, it should be noted that the current research work is the interaction and synthesis of right and philosophy, right and ethics, right and morality. The connection between right and ethics, right and moral norms is aimed primarily at the recognition and study of legal science as it is, as well as the way people think about the existing world. The philosopher tries to show the privileges that belong to man by analyzing legal and ethical issues. Although there are similar and different aspects between law and morality, there is a close connection between them. Taking these into account, the following conclusions can be drawn from the researched topics:

- The goal of legal science is to study social, historical events, ethical values, as well as the function of existing rules on society and the state, and to apply them to society;

- Ideas and values are discussed in the philosophy of law; the principles of "obeying the law" and "not allowing illegality" (should and shouldn't be) are emphasized more;

- By writing the philosophy of right, the main goal of philosophers be valued the human thinking about the existing world, because the existing world belongs to man, and the philosopher tries to introduce the superiority of human thinking by referring to ethical and legal norms.

It should be noted that in ancient Greek thought, especially in the legal philosophy of Socrates, the main principles of socio-political philosophy are not only reformative in nature, defects and shortcomings are indicated here, and the ways to solve them are also explained. Regarding the existence of the principles of justice in an ideal state, it can be interpreted in several points:

- Justice is honesty and doing one's duty;

- Justice means fulfilling the rights of people;

- Justice means being friends with the right person and fighting with the wrong person;

- Justice is an act that means serving the interests of the disenfranchised, not the ruling class. As for Aristotle's opinion about this, in his view, justice is a natural right given to a person, justice is a special limit that exists between all things, and this limit is a natural limit; because nature is usually perceived as unequal, justice is a means of eliminating this inequality. His views on natural law and morality can be interpreted in the following clauses:

- According to Aristotle's philosophy, natural law and morality are based on nature (intense nature), that is, there is a certain goal or purpose in the creation of beings. It is for this reason that all beings tend to be perfect according to their nature;

- As for the mutual relationship between natural law and justice, according to Aristotle, justice consists of eight parts: *general and particular, distributive and exchange* (exchange: replace, change), *absolute and relative* (or political), *natural and legal.* These types of justice are not separate from each other, but have an influence and connection to each other.

The function of "justice", "fairness", "conscience", "customs and traditions", which is more related to law, can be observed in the following clauses:

- According to the opinion of philosophers, moralists and legal philosophers, whether in ancient Greek thinking or in modern legal philosophy, issues related to rights are subject to a certain rule in all cases, but justice is not subject to a certain rule. The purpose of justice is to ensure that any person has his rights based on reason and law. Of course, here not only justice, but also *fairness* plays an important role in the application of legal issues;

- Whether fairness is within the law, ahead of the law, or different from the law and in some cases contradictory, the main goal here is to maintain the social balance in all cases, to recognize the rights of those who have rights;

- In protecting the principles of justice, not only fairness, but also the presence of *conscience* is the main condition.

- Conscience is considered as the values of the society and it

guides people to protect themselves internally, to follow social rules, and even compels them. The formation of rules such as unity, solidarity, and alliance is the result of the evolution of the collective conscience;

- Conscience plays a fundamental role in the creation of judges and judicial bodies; the necessary judgments of the judicial authorities based on reason and consciousness are applied before any decision made by the judge.

- Along with fairness and conscience, *custom* and *tradition* has a special place in protecting the principles of justice. It should be taken into account that before the legislative body established legal norms, it existed among people in the form of customs and traditions

- Custom and tradition are considered the main source of law in the official recognition of civil rights based on morality and law;

Here we *focused on the interaction of law and ethics.* Taking these into account, we characterize the interaction of law and ethics as follows:

- Ethics has influence in all sources of law (law, custom, judge's instruction, theory of scientists);

- Justice has a special place in the interaction of law and ethics. Justice as an ethical criterion permeates all the commands and requirements of law; justice works on existing rules based on ethical norms and regulates them;

- Ethical norms, by removing any defects in the implementation of laws, pave the way for superior values inherent in human beings. These values are one of the basic conditions required in legal rules, and in such a situation similar and different aspects arise in legal and ethical rules;

- Regarding the different aspects between law and morality, coercion is necessary in law, unlike morality, because rights are characterized by strong coercion; a person must comply with the requirements of the law even if he does not want to.

- Of course, the interaction of law and ethics is also manifested in the legal structures belonging to the Islamic tradition. This structure is primarily based on *religion and spirituality;* It is a reality-based, *multi-comprehensive* and *public* structure; another characteristic is that

it is *complete* and *perfect;* emphasis on *unity* and *cooperation.*

- As for the concept of justice in the works of modern philosophers, moralists, and jurist philosophers, we should note that in the view of the philosophers, justice is the criterion for evaluating and legitimizing laws; justice must establish the rule of law and be consistent with the law in all cases; justice should serve the development of law; justice is the main function of both law and ethics, as well as moral norms; justice is the basis of the law, an integral part, the main condition that protects the legitimacy and binding of the law; unjust laws are considered illegitimate laws.

Philosophers claimed that there is a necessary connection between morality and law, and stated that ethical norms are superior to positive law, and that positive laws are derived from natural laws. Some important conclusions on the subject can be seen in the following in clauses:

- According to philosophers, there are two types of law: natural law, that is, law based on ethical norms; positive law. According to them, positive law has its roots in natural law. However, according to the opinion of some legal philosophers, positive law is created by the legislature, unlike natural law, and there can be no question of ethical norms here;

- Philosophers divide the theory of natural law into two important parts: the traditional theory and the new theory. The traditional theory covers three main periods, which are those associated with ancient Greece, ancient Rome and Christianity;

- Law is considered the main source of law, whether natural or positive. Philosophers present law as binding rules established for the regulation of collective life.

- Regarding the relationship between ethics and natural law in the Christian religion, it should be noted that there is a special interest in the natural law in the Christian religion; this law is compatible with the Christian worldview because its roots are based on divine existence and ethical norms. That is why there is a connection between religion, ethics and law.

As for the socio-political principles of morality and law, the ratio of morality and law is an indicator of special values in people's

personality, behavior and social activity. With this in mind, let's pay attention to the following points:

- The relationship between morality and law has a corrective nature;

- Morality and law, having an educational effect, have a special authority in the maintenance of order and order;

- Inculcating ethical values and the requirements of the law in society members means building a healthy and sustainable society both mentally and spiritually;

- Along with morality and law, a healthy society is also important in the formation of a person as an exemplary individual.

Despite the absence of different opinions, the general conclusion is that the relationship between legal and ethical norms is considered the main condition for the creation and functioning of laws. Despite the different opinions of philosophers, moralists, legal philosophers, jurists, politicians, historians, economists and other scholars about the ratio, interaction, and in some cases separation of legal and ethical norms, and other issues related to the subject, the common goal is that in all cases ethical norms, social-political, cultural relations, moral-spiritual values should exist, these relations should meet the requirements of the law along with ethical norms. Because the connection between man and right, man and law, man and justice, right and morality, right and ethical norms, morality and law, justice and law means the protection of social and political order and the formation of an exemplary civil society.

The content of the dissertation is reflected in the following studies published in various publications:

1. Ethical principles in the legal state-building of the Great Leader Heydar Aliyev (philosophical, legal, socio-political analysis) // ANAS Institute of Philosophy and Sociology. "Political legacy of Heydar Aliyev and Azerbaijanism", – Baku: "Science and Education", – 2020, – pp. 243-257.

2. Great Leader Heydar Aliyev: ethical values in the constitution, democracy and human rights (legal, socio-political and philosophical analysis) // ANAS Institute of Philosophy and Sociology. Azerbaijan's Strategic Goals and new realities in the South Caucasus, – Baku: Bilgi, – 2021, – pp. 82-92.

3. Heydar Aliyev and the idea of national statehood: socio-political, legal and ethical principles of national statehood // – Baku: "Science and education", – 2023, – b. IV, pp. 269-279.

4. Law and justice in the philosophy of law // – Ukraine: "VIRTUS", – 2020, No 46, – pp. 10-14.

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6. Philosophical analysis of law in the works of Western jurists // "Issues of increasing legal knowledge in the 21st century: unity of theory and practice" XLVIII International Scientific-Practical Conference, – Kazan: "Scientific and creative society", – (2017), – 2017, – pp. 44-48.

7. Philosophy of law: legal system and its moral, social and political functions // – Baku: News of Baku University, journal of socio-political sciences "Baku University",– 2021, No 2, – pp. 80-90.

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12. Socrates' legal philosophy: the main principles of political
    philosophy - epistemology, ethical norms in individual and
    social behavior (philosophical, legal, socio-political analysis)
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    ethical and social obligations // – ANAS Ganja Department.
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14. The ratio of Law and Ethics: the philosophical meaning and
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15. The ratio of ideal state and natural law in Plato's philosophy,
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    Baku State University, Faculty of Law. Azerbaijan Law
    Journal, – 2022, No 1, – pp. 26-40.
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    Nicomacheus // – Baku: Academy of Public Administration
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