

**REPUBLIC OF AZERBAIJAN**

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**ABSTRACT**

of the dissertation for the degree of Doctor of Science

**FORMATION AND MODERN TRENDS IN  
DEVELOPMENT OF MEDICAL LAW AND BIOETHICS IN  
THE REPUBLIC OF AZERBAIJAN**

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## GENERAL DESCRIPTION OF WORK

**Relevance of the dissertation topic and research.** Scientific and technical development, revolutionary achievements, modern technologies (transplantation of organs and tissues, human reproduction, genetic engineering, genomics, resuscitation, etc.) in the fields of medicine and biology have led to the emergence of new moral and legal problems. The need to learn and respond to them in depth has emerged. In order to comprehensively assess and balance the benefits and harms of innovations, bioethics and medical law began to develop rapidly in the world starting from the 60s of the last century.

In 2010, at the opening of the 18th World Congress of the World Association for Medical Law (WAML) in Zagreb, Croatia's President, Professor Ivo Josipovic, formerly Dean of the Faculty of Law at the University of Zagreb, said: “today intensive development of medical law for the good of human rights is a characteristic of all democratic states. The level of development of medical law in the country is a key indicator of the level of development and democracy of the state.”<sup>1</sup> Indeed, in most developed countries, medical law today is a well-established field of science, education and practice. Legal protection of human rights in healthcare and medicine is not very important for them. The science and experience of these countries is mainly focused on the guaranteed protection of violated rights in the health. For Azerbaijan, the relevance of these issues is very relevant both in legislation and in the protection of violated rights.

The main goal of medical law and bioethics is to protect the rights to life and health as the main goal. Both of these are the most fundamental human rights. Life is an irreplaceable, lifelong blessing. Health, as well, in many cases is not restored after it is lost, disability, chronic disease remains, especially in elderly people. Unfortunately, despite the rapid development, the number of damages, accidents, and

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<sup>1</sup> Мамедов В.К. Степень развития медицинского права является показателем демократичности и развития общества. *Azərbaycan Tibb Jurnalı* №1. Bakı, 2011, s. 5-9.

bad results is increasing in the healthcare system, medicine, biology, and ecology. Sometimes, people lose their health in the medical centers themselves and, unfortunately, the number of such incidents is increasing year by year. Thus, in 2016, an article published in the US "Washington Post" newspaper with reference to Johns Hopkins Medicine research indicated that about 250,000 deaths occurred in the United States annually as a result of medical errors, medical defects and accidents in the health care, which for the first time in history, became the 3rd leading cause of death in the country after cardiovascular and oncological diseases (Look at: *Makary M., Daniel M. Study Suggests Medical Errors Now Third Leading Cause of Death in the U.S. Johns Hopkins Medicine, May 3, 2016*). In European Union, as well as in the countries of other regions of the world, where statistical research is organized correctly and transparently, the indicators are similar and are shown in the dissertation.

Due to serious attention paid to health and medicine by the President of the Republic of Azerbaijan (AR), Mr. Ilham Aliyev, the First Vice-President, President of the Heydar Aliyev Foundation, Mehriban Aliyeva, great changes have taken place here in recent years. The latest technologies have been introduced and put into operation, the material and technical base of health care has been substantially improved and modernized. The provision of better-quality treatment and preventive services to the population is set as the main task in the policies and laws of our state, and the protection of human health is declared as the highest criterion. (Look at: *Məmmədov V.Q. Heydər Əliyev Fondu Azərbaycanın sosiomədəni inkişafına töhfələrini verir. "Azərbaycan" qazeti, No253 (5943), 17 noyabr 2011; Məmmədov V.Q. Heydər Əliyev Fondunun Azərbaycanın sosial inkişafına verdiyi töhfələri. "Dirçəliş – XXI Əsr", №168/May 2012, s.116-125; Мамедов В.К., Джафарова Л.А., Каландарли Н.Г. О деятельности Фонда Гейдара Алиева в сферах развития биоэтики и защиты прав пациентов в Азербайджане. "Beynəlxalq hüquq və inteqrasiya problemləri", No2 (38), 2014, s. 219-231; Mammadov V.Q. Bioethics-Azerbaijan. Chapter in book: R.G.Beran (ed.), Legal and Forensic Medicine. Springer-Verlag Berlin Heidelberg, 2013. p.1171-1115*). At

the same time, our healthcare has been actively privatized, medical services and facilities have been divided between different institutions. Currently, more than half of the medical services provided in our republic are provided in the private sector. These two factors - new technologies and privatization - have introduced a large number of new players into the health sector, which necessitates a serious regulation of the ever-changing and evolving multi-stakeholder public relations in this field. In other words, in order to achieve the set higher goals, medical law and bioethics must be constantly developed in our country so that the created gaps are eliminated. Legal and ethical gaps are inevitable amid rapid development. We have many such gaps in all areas of our healthcare today, we must admit it. In order to achieve the goals, set by the country's leadership, it is necessary to implement modern, self-justified principles of medical law and bioethics in both health legislation and science, education and practice.

Although bioethics came to Azerbaijan in the 90s of the last century, the development of the science of medical law began in 2011 with the establishment of the Department of “Bioethics and Medical Law” at Azerbaijan National Academy of Sciences (ANAS). Although a lot of work has been done in our country for their development described in the dissertation, there is still a lot of work to be done in the formation of medical law as an independent field of science and practice, scientific specialty and teaching subject in Azerbaijan. Many bioethical dilemmas, issues that require medical and legal solutions have not yet been found, they have not been deeply investigated, there are objective gaps in Azerbaijan's healthcare legislation and its implementation. Many issues cannot be resolved on the basis of applicable civil, criminal, administrative, family or any other field legislation (Look at: *Mammadov V.Q.* Bioethics-Azerbaijan. Chapter in book: R.G.Beran (ed.), *Legal and Forensic Medicine*. Springer-Verlag Berlin Heidelberg, 2013. p.1171-1115; *Mammadov V.Q.* Recent developments of medical law and bioethics in Azerbaijan. / “Медичне право”, ISSN 2072-084X, № 1 (11) 2013. Lviv, Ukraine. с.43-53; *Мамедов В.К., Мамедова В.Я.* Формирование биоэтики и медицинского права в Азербайджане как единой комплексной

науки. “Медичне право”, № 2 (20) 2017. Lviv, Ukraine – с.44-58). In order to resolve issues in the right direction, the formation of lawyers who know medicine well and understand its intricacies is the intervention of legal approaches in medicine and health care, which is possible only with the strengthening and development of medical law. All of these show the relevance of the dissertation topic and research.

### **Degree of scientific development of the research topic.**

Numerous studies on bioethics and medical law have been published around the world today. In the past, bioethical problems were mostly covered in the works of philosophers, but today in many countries these issues are the objects of study of law. Among the researches of lawyers, the works of specialists in human rights, international law, criminal, civil and family law, as well as constitutional law prevail. There are many textbooks and monographs published in different languages in the field of medical law and bioethics, including English, Russian, Chinese, French, Spanish, Turkish, Portuguese, Japanese, etc. Although there are separate books and textbooks in the field of medical law and bioethics in Azerbaijan, there is still no detailed, fundamental scientific work that meets modern standards. Monographs, scientific-research works of the First Vice-President of the Republic of Azerbaijan, President of the Heydar Aliyev Foundation M.A. Aliyeva dedicated to euthanasia issue – “We choose life” (Look at: *Алиева М.А. Мы выбираем жизнь*. Баку, 2005. 63 с.), “Euthanasia and the problems of humanity in medicine” (Look at: *Алиева М.А. Эвтаназия и проблемы гуманности в медицине*. Баку, 2004. 152 с.), A.I. Mustafazade, Z.N. Aslanov’s “Medical Law” textbook (Look at: *Mustafazadə A.İ., Aslanov Z.N. Tibb hüququ. Dərs vəsaiti*. Bakı, Elm, 2017. 204 s.), dissertations defended by A.I. Mustafayeva (Look at: *Mustafayeva A.I. Bioetika və insan hüquqları: nəzəri və təcrübi problemlər. Hüquq elmləri doktoru alimlik dərəcəsi üçün dissertasiya*: Bakı, 2013 – 347 s.), G.A. Javadli (Look at: *Cavadlı Q.A. İslam bioetikası: dini-etik kontekstdən müasir ictimai problemə qədər. Doktorluq dissertasiyanın avtoreferatı*. Bakı, 2021. 35 s.), N.H. Qalandarli (Look at: *Каландарли Н.Г. Права Пациентов в Азербайджанском законодательстве и международный опыт*.

Диссертация на соискание ученой степени доктора философии по праву: Баку, 2014. 193 с.), F.E. Aliyeva (Look at: *Əliyeva F.E. Sağlamlığın qorunması hüququ: beynəlxalq standartlar və Azərbaycan Respublikasının qanunvericiliyi. Hüquq üzrə fəlsəfə doktoru elmi dərəcəsi üçün dissertasiya*: Bakı, 2015. 180 s.), V.Y. Mammadova (Look at: *Мамедова В.Я. Биоэтические и правовые особенности деяний коррупционного характера в системе здравоохранения: международная практика и АР. Диссертация на соискание ученой степени доктора философии по праву*: Баку, 2022. 181 с.) refer to the research works carried out in this field.

Our well-known national legal scholars have also paid considerable attention to the problems of medical law and bioethics. Thus, the following law scientists have studied various medical and bioethical problems from different perspectives: prof. A.I. Aliyev, prof. R.F. Mammadov, prof. L.H.Huseynov, prof. E.A.Aliyev, prof. O.F.Efendiyev, prof. S.I.Aliyev - from international law and human rights, J.D. T.I. Huseynov - from international law and environmental security, prof. I.M.Rahimov – from criminal law, death penalty, morality and philosophy of punishment, J.D. I.A. Ismayilov, prof. J. I. Suleymanov and prof. B.S. Zahidov – from criminal law and forensic medical expertise, prof. M.D. Damirchiyeva – from civil law and family law, prof. M.N. Aliyev – from social policy and social security, prof. A.H. Rzayev and J.D.S.B.Hasanzade - from the perspective of constitutional law and state control, and there are references to their works in the dissertation.

D. Bartenev, L. Vorobyova, O. Makhnik, N. Miller, I. Siluyanova, D. Beauchamp and B. Steinbock, Sh. Alyautdinova, S. Borodavkina, B. Yudin, M. Al-Attas, A. Karmi, D. Tyndale, H. Engelhard, A. Taylor, N. Krylova, M. Berdion, O. Letova, P. Robinson, O. Ivchenko, E. Fromm, M. Charlesworth, D. Guy-Williams, R. Harthaus, M. Tuli, V. Baranov, E. Belousova, V. Velkova, A. Zelenina, H. Muller, D. Goodfield and many others works were represented in the dissertation work. Legislation of Azerbaijan and foreign countries, international legal documents, declarations, conventions and other materials of international organizations, such as

UN, UNESCO, WHO in the fields of modern healthcare, human rights, medical law and bioethics were analyzed in the dissertation.

**The object of research** is public relations related to the protection of human rights in the health system, medicine and biology, the problems of application of international law in these areas in the Republic of Azerbaijan.

**The subject of the research** is the theoretical basis of the legal regulation of human rights protection in the health system of the Republic of Azerbaijan, health and bioethics legislation, experience in the field of interaction of international law in this field and health legislation of developed countries.

**The aim of the dissertation** is to study the history of development of medical law and bioethics in the world, by studying the current state of international practice, to identify their features in Azerbaijan, modern development trends, to confirm the importance of medical law as a new field of law, to develop recommendations for the practical application and education in the field of medical law, aimed to close gaps in the AR health legislation in the field of protection of human rights and improvement of prioritization of bioethical principles.

The mentioned purpose defines the **following tasks**:

- to determine the history of development of medical law and bioethics in the world, their definitions, sources, subjects and methods, general and special characteristics;
- to determine the similar and different features of forensic medicine and medical law, which are areas of intersection between law and medicine, and to study their interrelationships;
- to determine the interrelationships of bioethics, human rights and medical law, to analyze the international legal documents in force in this field;
- to describe medical law and bioethics, which are emerging as new fields of science in Azerbaijan, to show their place in international cooperation, and the role of our specialists;



- to analyze the events that caused public resonance, showing the need for the development of medical law in Azerbaijan;
- to closely study the current problems of medical law in order to determine the modern development trends;
- to study the impact of modern challenges related to globalization, new technologies (transplantation of organs and tissues, reproductive technologies, genetic engineering, etc.) and commercialization of healthcare on the development of medical law;
- to conduct a legal assessment of the risks of new challenges such as the COVID-19 pandemic and bioterrorism and showing ways to combat them;
- to study the problems of medical errors and medical malpractice, health inequalities, corruption and transnational crime related with health systems;
- to study the protection of human rights at the beginning and end of life, euthanasia, palliative care, etc. and to analyze such problems from the point of view of bioethics and modern law;
- to study patient rights, analyze the principles of informed consent, confidentiality, autonomy, justice and equality, sharing of benefits and cooperation arising from international law;
- to study the rights of people with disabilities and people with limited capabilities, to analyze the principles derived from international law in this field;
- since the right to live in a healthy environment is an important aspect of a person's right to health, to demonstrate it as a part of modern medical law;
- to confirm the strengthening of interactions between medical law and bioethics and human rights in Azerbaijan as a basis for the successful development of the state's social policy;
- to show the role of implementation of bioethical principles in AR healthcare legislation;

- to show the importance of strengthening the legal-ethical component in the education system in Azerbaijan;
- to analyze the potential of forensic medical expertise, which was historically formed at the intersection of medicine and law, to the development of medical law in modern conditions, to determine the prospects of their joint development;
- to determine the role of the development of bioethical committees and medical legal advocacy in Azerbaijan for the society.

**Methodological basis of the research.** Both general scientific methods of understanding, such as historical-logical, systematic analysis, dialectical, prognostic, as well as special-comparative legal, legal modeling, sociological scientific methods were used in the research process.

The use of systematic analysis and dialectical methods allowed us to identify the general objectives of bioethics and medical law, to clarify what can be done in the current legislation of the Republic of Azerbaijan, what needs to be done to better protect human rights in medicine and health, to determine the need for the implementation of international legal norms.

During the study of the topic, it was necessary to refer to scientific works on general legal theory, philosophy of law, international law, human rights, health legislation of the Republic of Azerbaijan and foreign countries, medical law and bioethics. In solving many tasks of the research, the health legislation of the Republic of Azerbaijan, national normative-legal documents on protection of human rights were compared with relevant international legal sources, national legislation of developed countries with serious experience in this field, similarities and differences were identified. Thus, it can be said that the method of comparative-legal analysis is widely used and forms the main methodological basis of the work.

**The normative base of the research** consisted of national and foreign legislation regulating various bioethical problems, emerging and potential legal issues in health, international legal documents

protecting human rights and bioethical principles, constitutional, international, criminal, civil and other legal acts.

The following **main new scientific provisions** and results obtained in the course of the carried-out research in the dissertation and reflecting the novelty of the fulfilled research are substantiated and defended:

1. Medical law is an integral part of modern jurisprudence. Medical law must have a place in the legal science system of democracies. There should be “medical law” in Azerbaijan's jurisprudence, “health legislation” in its legislation, “medical law and bioethics” in legal education, “medical legal advocacy” and “medical lawyer” in legal practice. The subject of medical law is the complex of social relations that arise during the implementation of medical and pharmaceutical activities, and the sum of normative-legal acts that determine the legal status of the participants of those relations. Current national and foreign legislation, its application practice, development history is the subject of medical law science.
2. The rapid scientific-technological revolution and globalization have technologicalized health care and turned it into a profitable economic sphere that is expanding year by year. This led to a radical change of the ethical norms and relationships that have existed in medicine for centuries, to commercial and business areas, where there is a great need for legal regulation of new social relationships.
3. Medical law and bioethics are closely related to international law and human rights. International law is the source of basic bioethical principles and medical law applied in world health, medicine, biology, ecology and all fields related to life protection. International law has closely linked them. The protection of human life and health is considered the most basic, fundamental and essential human rights by international law, which are the main tasks of medical law and bioethics. Therefore, the formation of medical law and bioethics in the

legal science system of Azerbaijan should start from the platform of international law and human rights

4. Formation of bioethical awareness is very important in today's world, but establishing bioethical norms alone is not enough. Precise legal mechanisms and legal frameworks should be developed for their provision and realization. The formation of precise legal mechanisms in the field of medical law and bioethics in Azerbaijan should begin with the improvement of our healthcare legislation. "Medical law" should be applied in practice, and "medical law and bioethics" should be applied in the field of science and education, because the legal norm here is based on basic bioethical principles and methods.
5. Since the rights to life and health are fundamental human rights, medical law and bioethics should be one of the main pillars in the construction of a legal state. "Keep a person alive so that the state can live! Keep a person high so that the state rises!" Public opinion sees and understands the existence of serious moral-ethical, legal and organizational problems in our healthcare and expects the state to take steps to solve them. Although this area is the most sensitive, most important and demanding for all, the guarantee of human rights protection is very weak here. For the sake of the development of health care, the advancement of medical law and bioethics in our republic should be ensured through an objective assessment of the real situation in health care and medicine, uncovering existing problems, and comparative analysis with international practice.
6. Modern healthcare systems are based on the protection of patient rights. Here social relations are regulated on the basis of basic bioethical principles such as informed consent, autonomy, justice and equality, sharing of benefits. The principle of "informed consent", which is considered a fundamental doctrine of health care in democratic countries, has not yet been added to our 1997 Basic Law of Health. Although the law "On Psychiatric Assistance" adopted later

states that psychiatric assistance should be provided on the basis of informed consent, its mandatory application in the basic law of our health should be taken into account.

7. Weak functioning of legal mechanisms and bioethical principles creates serious moral-ethical and legal problems for both our people and our state in many areas of health care, including the most rapidly developing ones. For example, due to non-diagnosis of "brain death", the wide spread of living donation, accessibility and inequality problems clearly demonstrated this in the field of organ and tissue transplantation during the last 23 years.
8. Although 9 patient rights are established in our current healthcare legislation, they are not comprehensively reflected, which leads to serious problems that are sometimes not solved or difficult to solve in practice. Many other modern patient rights, such as access to medical services, adherence to quality and safety standards, moral support and legal assistance, representation, independent expertise, are generally not reflected in our laws.
9. Throughout history, the interaction between law and medicine has been embodied by the science of forensic medicine. The model of forensic medical expertise of the USSR and modern AR and its normative-legal basis can be considered unique, because it has the task of serving not only law enforcement agencies, but also health authorities. This advantageous distinction is, unfortunately, not used. It is suggested that the directions of "medical law" and "forensic medicine" converge and play an important role in the development of health care, and their transformation into state medicine. The unity of medical law and forensic medicine in Azerbaijan has great potential. Scientific research and experience here can give very useful scientific results not only for Azerbaijan, but also for the world.
10. Current bioethical issues at the beginning of life include the application of reproductive technologies, the status of the

embryo, abortion issues, conflicts of interest between the mother and the unborn fetus, and the use of embryonic stem cells. The study of these issues has not only legal, but also moral, philosophical and even religious meaning and raises many controversies. We think that we should develop our new national legislation in this field based on bioethics.

11. Bioethical issues are also actively manifested in the last stages of life. These include difficult bioethical and legal problems such as euthanasia, palliative care and the activities of hospices related to it, dignified death. The study of international experience shows that in the developed countries of the world, palliative care is provided not only to patients, but also to their relatives in the form of psychological assistance and education on the proper organization of care. There is a need to develop such practices in our country.
12. Globalization and the rapid development of new technologies cause harm as well as positive aspects. For example, the commercialization of healthcare can have a negative impact on patient rights. Application of operations and medical interventions, especially in the cosmetic and aesthetic field, reproductive technologies, medical tourism, etc. numerous advertisements, doctors' behavior that does not comply with the rules of medical ethics, and the weakening of state control strengthen such negative trends. Therefore, there is a need for the development of legal control and regulation in this field, and conducting scientific and practical studies.
13. The development of bioethics also defines new fields, the regulation of which, although not related to health, is included in the subject of medical law due to its connection with the rights to life and health of a person. These areas include the normative-legal framework that regulates such areas as ecological problems related to the right to live in a healthy environment, GMOs and their development, food safety, and the fight against bioterrorism.

14. Protecting the rights of people with disabilities is a very important issue for our country. Unfortunately, despite the state's care, people belonging to this group still face many difficulties in their daily lives. In this regard, it is necessary to provide people with disabilities with the necessary assistive technologies, and to increase the level of awareness in this field. In addition to physical disability, mental health disorders are relevant from a medico-legal point of view. A special place should be reserved in state programs and laws against stigmatization, discrimination, inaccessibility and other negative situations.
15. One of the most serious implications of the last years at the international level was the COVID-19 pandemic. During the pandemic, many bioethical principles were violated, new problems, inequalities between countries, problems of treatment of chronic patients at different levels were revealed. For the protection of human health, other fundamental rights have been violated, and certain acquired balances have lost their statement. These problems and their implications should be analyzed in depth by future studies.
16. The development of medical law and bioethics as fields of science showed the importance of their presence in the education system. Although this is already well organized in higher legal education in our republic, there should be progress in this field in higher and secondary medical education. In modern times, it is not enough for a course called “bioethics” to cover only medical ethics, deontology and old principles. The Medical law and bioethics” course should be taught in Azerbaijan, as in other countries, to students of medical faculties, as well as to future scientists and specialists in this field, and health care managers.
17. The development of medical law and bioethics, which we studied in the dissertation, is not limited to the field of science. The most important of the instruments that can enable their joint implementation is the establishment of bioethical

committees. Although the official names of bioethics committees differ in different countries, their essence remains the same - the protection of bioethical principles, patient rights and ethical values in health-related matters. It is important to take steps in this direction in Azerbaijan.

18. The problems of medical errors, medical mistakes and violations of law in healthcare, crimes, inequalities, corruption, transnational crime, bioterrorism have not been sufficiently studied in national law. Their research, study and strengthening of the fight against them have great potential for the development of medical law along with the above-mentioned areas. In this field, the absence of medical legal advocacy in our country leaves us behind many countries, including our brother Turkey. The development of medical legal advocacy should be included in national legal practice.

The **scientific novelty of the work** is that this dissertation is the first doctoral dissertation defended in Azerbaijan on medical law. Although many works have been done in this field in our country, it is the first scientific-research work that determines the place of medical law in our national legal system and lays its foundation as a new scientific direction. Until now, several dissertations have been defended on various aspects of bioethics and law, in which the author was a scientific supervisor and scientific advisor, but a comprehensive analysis of medical law on the levels of science, practice, legislation, and education has been studied for the first time in this dissertation work.

For the first time in Azerbaijani science, the author defines the place of medical law as a new field of science in the system of legal sciences of our country, connects it with international law and human rights, reveals the actual problems that need to be solved legally, learns the international experience and maximizes human rights in solving those problems, offers ways to protect them to a maximum extent. Therefore, the successful defense of this dissertation can be the beginning of a historical stage in the development of medical law and



bioethics in Azerbaijan, and the beginning of many new and relevant scientific researches.

The author identifies new dilemmas, current bioethical and legal problems, and draws the lines of future development prospects by studying the development and sources of medical law and bioethics in the world, by deeply analyzing the work and research done in this field in the republic for the first time. Newly formed relationships in the rapidly developing health care system of our society have been deeply studied and scientifically analyzed from a legal point of view for the first time.

The dissertation shows that for the protection of life and health rights, which are the most important of human rights, in modern conditions, health care, medical-biological sciences and practices form a special and large legal space for the first time, and if the citizen's opportunities to easily protect their basic rights in this space absent, then there can be no discussion about democratic issues, law, justice. For the first time in Azerbaijan, the problems existing in this sector at all stages, from the beginning of life to the occurrence of death, current bioethical dilemmas, legal issues are investigated in a complex form, modern approaches are studied, analyzes are made and proposals are made. Embryo status, abortions, palliative care, euthanasia, organ and tissue transplantation, new reproductive technologies, in vitro fertilization, surrogacy, genetic engineering, genetically modified foods, eugenics, cloning, patient rights, rights of people with disabilities, health care violations and bioethical dilemmas, medical malpractice, medical errors and accidents, legal liability, the right to live in a healthy environment, healthcare inequities and corruption, transnational crime, bioterrorism, new challenges such as COVID-19, etc. are being investigated for the first time. At the end of these extensive analyses, the importance and priority of the protection of human rights related to human health and life in the fields related to healthcare, medicine and biology in modern conditions for statehood, legality, and justice is shown for the first time in AR, and legal mechanisms for their provision are comprehensively proposed and the following scientific propositions are defended.

**Practical significance of the research.** The formation of medical law and bioethics as a scientific direction in Azerbaijan is of great practical importance. Based on the results of the research, the specialty “medical law” can be included in the list of legal sciences of the nomenclature of scientific specialties of the SAK, and this work, its scientific provisions and results, are, in fact, aimed at this. It is to reveal the importance of the problems existing in our healthcare and medicine for our state, people, and society, to demonstrate the need for the development of medical law with scientific evidence, and to help organize science and education in this field.

This dissertation is the first fundamental and extensive scientific-research work conducted in our republic on a new scientific direction such as medical law. This work can stimulate new research that is necessary and relevant for our society, nation, and state. The results obtained in the dissertation and the recommendations formed on their basis will be useful for improving the existing normative-legal framework regulating relations in the fields of medicine, health care and biology, and will be used in the health legislation of Azerbaijan, laws regulating science and education. Dissertation materials can be used for students of law and medical faculties, in advanced courses of lawyers, advocates, judges and medical workers, it can be used in the teaching of subjects of bioethics, medical law, human rights, forensic medicine, criminal law, civil law, constitutional law, family law, etc., and it can also form the basis for the protection of human rights in bioethical and legal practice, helping to develop normative documents.

As a final result, the suggestions made by the author in the direction of improving the national health legislation make a great contribution to the strengthening of the state policy in this area and the protection of people's constitutional rights to life and health. One of the most important practical aspects of the work is to justify the need to create a national legislative framework that integrates international experience and national characteristics and to strengthen the educational process. However, in addition, the results of the research and the main scientific provisions will be useful at the practical level, as well as in the work of public organizations operating in the field of

protection of human rights in health care, protection of the rights of patients and medical workers, in the activities of bioethics committees, and in the provision of medical and legal services and advice. Many of the criteria developed and proposed in the dissertation will be useful not only in the activities of medical professionals, medical institutions and lawyers, but also in the work of health leaders, legislators, politicians, and those who conduct ethical and legal expertise of clinical experiments and trials.

**Approbation of research results.** The author has been engaged in research work since 2008. The author has prepared and published more than 220 scientific works on the subject of the dissertation, including 117 articles, 124 abstracts, 2 textbooks, 2 teaching materials, 2 curricula, 2 monographs. Half of them were published in foreign countries (1 monograph, 50 articles, 116 theses). The list of the main 77 of them is given at the end of the abstract. Along with scientific publications in Azerbaijan, the author's views on medical law and bioethics, his attitude to issues of public resonance are reflected in the country's leading media, newspapers and magazines, as well as television, radio programs and official websites.

The personal contribution of the author in this and other large-scale research works, which played a role in the formation of medical law and bioethics as new fields of science in Azerbaijan, is great. In addition to this dissertation, 1 doctorate in law, 15 candidate theses, and 2 candidate theses in forensic medicine were developed under his scientific guidance and guidance. Among them, 1 doctorate and 4 candidate theses were successfully defended, and 3 more successfully passed the initial defense. Two dissertation students are from abroad.

The results of the research were presented at the World Medical Law Congresses (Beijing, 2008; Zagreb, 2010; Maseio, 2012; Bali, 2014; Coimbra, 2015; Los Angeles, 2016; Baku, 2017; Tel-Aviv, 2018; Tokyo, 2019, Gold Coast, 2022), at the 2011-2019 conferences of the European Association of Health Law and Medical Law Associations of America, Turkey, China, RF, Ukraine, Kazakhstan, Indonesia, Pakistan, the HELP (Health Education for Legal Professionals) conference (Kyiv, 2019), at the meetings of the

International Bioethics Committee of UNESCO, the Presidium of ANAS, Human Rights, Philosophy, Sociology and Law, Molecular Biology and Biotechnologies, Botany and other scientific research institutes of ANAS, at scientific conferences of the Constitutional Court of the Republic of Azerbaijan, BSU, Azerbaijan Medical University (AMU) (2011-2019), at meetings of the board of the Ministry of Education of the Republic of Azerbaijan, at the Great Scientific Council of BSU, at the Police Academy of the AR Ministry of Internal Affairs (2011-2014).

**The structure of the work** is organized in accordance with the main goals and objectives of the study, and is consistent with the logic applied by the author to address these issues. The dissertation consists of an introduction, 4 chapters (23 paragraphs), a conclusion and a list of references (740 sources). The volume of the dissertation, excluding the bibliography, is 272 pages. Total number of characters in dissertation, without literature list, is 527.119: introduction 40585, chapter I 52082; chapter II 59071; chapter III 238050; chapter IV 124970; conclusion 12361.

## MAIN CONTENT OF THE WORK

**The introductory part** of the dissertation provides information on the relevance of the research, its degree of scientific development, the object and subject of research, the main goals and objectives, the main scientific provisions, scientific novelty, theoretical and practical significance, approbation of results.

The first chapter of the dissertation is dedicated to **“The formation of medical law, bioethics in the world.”** This chapter consists of four paragraphs. The first section, **“Crossroads of Law and Medical Sciences: Forensic Medicine and Medical Law,”** compares medical law with forensic medicine, the intersection of law and medical sciences, and shows their similarities and differences. It also shows the history of medical law, explains its causes and various aspects.

The concept of medical law did not exist a century ago, 100 years ago. There was no need for that. However, the science of law has always intersected with the science of medicine. There was always a point of intersection of Law and Medicine, being the oldest branches of science, and there are examples of them even in the Holy books of different religions, which are closely touched upon in the dissertation. Forensic Medicine, which originated in ancient times, thousands of years before our era, and has been formed as an independent branch of science since the Middle Ages is at that crossroads. Forensic medicine is one of the oldest sciences.

Taking into account the development of the Azerbaijani statehood, law enforcement and health systems in accordance with modern trends, rather than the Soviet type, in our textbooks we changing the concept of forensic medicine see the future development of this field together with medical law. Thus, our “Forensic Medicine” textbooks in Azerbaijani and English, published in 2012, state that “Forensic medicine is a medical science that deals with the application of medical knowledge in law in order to establish justice”. Forensic medicine is an independent medical science that combines knowledge and special examination methods used to clarify medical and biological issues arising in the activities of law enforcement agencies, investigations, criminal and civil cases.

**“The concept, subject and methods of medical law and bioethics”** are described in detail in the second paragraph of the first chapter. It provides information on the essence of the events that took place during the Second World War in the formation of medical law and its recognition at the world level. As a result of the events of that time, influence of the Nuremberg trial and code, the field of bioethics began to develop worldwide. As bioethics develops, it becomes a complex science. It covers the field of interdisciplinary research at the intersection of biological, medical sciences, medical practice (clinical and experimental practice) and scientific research between human values and rights. This science reveals the supremacy of the human right, the human race, and humanity to live in the face of many and varied threats. Bioethics shows that protection of health in modern

conditions is not as easy as it seems, the protection of human rights in the modern health care system itself is very difficult, and it requires both moral and legal mechanisms to protect health.

Medical law, which frames new bioethical norms, is thus formed and developed as an independent branch of law. Such a situation is due to the fact that the latest inventions in biology and medicine are able to change not only our ideas about life and death, norms and pathologies, good and evil, but also the prospects for the development of all human life. The rapid change in medicine, in turn, brings new bioethical challenges to both medical and legal sciences, and raises the issue of the need to address them in an ethical and legal context.

Taking into account that the subject of any field of law is a certain group of social relations regulated by relevant legal norms, this paragraph defines the scope of medical law. Taking into account the novelty of this field, its dynamic development, the complex of social relations arising during the implementation of medical and pharmaceutical activities as the subject of medical law, and the totality of normative-legal acts that determine the legal status of the participants of those relations. Current national and foreign legislation, its application practice, history of development form the subject of medical jurisprudence. The subject of the science of bioethics is the sum of wide ethical and philosophical problems arising in connection with the rapid development of biological sciences, medicine, healthcare and the application of new technologies. Currently, bioethics uses various methods for the study of these ethical problems, but the most important is the discussion method, which consists of posing questions and active discussion of their possible alternatives. At the same time, modern bioethics is not only an object of discussion, but also reflects a concrete large-scale activity - biomedical research in which humans and other living beings participate. In these cases, bioethical committees are created for the correct evaluation of various ethical aspects and for making decisions, and representatives of different gender, age, profession, profession, world view, and religious groups of the society are included in it. These gradually ensured the

rapid enough development of bioethics structures, institutions and mechanisms, expanded the relationship of this science with disciplines and fields and the opportunities for mutual influence through different evaluations. In the system of general medical, biological, ethical, philosophical knowledge, some scientists currently distinguish three major areas related to human life and health: general bioethics, biomedical ethics and environmental ethics. Using normative and descriptive methods in each of these, they are closely related to law.

The third paragraph of the first chapter covers the issue of **“History of medical law and bioethics, international legal sources, the main stages of development.”** Currently, bioethics, as a new complex field of science, considers the protection and enforcement of human rights to life and health in many life sciences, medical practice (clinical and experimental medicine), the problems arising from the intersection of scientific research with human values has become a field of interdisciplinary research, examining the issues of maximum human rights in the health system in modern conditions.

Ethical norms studied and promoted by bioethics cannot be applied and protected without a clear legal framework, and these norms have begun to emerge in international law in order to protect human rights. The first such document after the Nuremberg Code was the Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948. The preamble to the document states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”, and “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind”. The declaration states that the member states of the world community have reaffirmed their belief in the provisions of the UN Charter - human rights and fundamental freedoms, human dignity and identity, legal equality of men and women, and decided to improve living conditions to promote social progress.

In the next stage of history, various international organizations, including the WHO, the Council of Europe, etc. adopted a number of international instruments covering medical law and bioethics.

The fourth paragraph of the first chapter, **“Mutual relations of medical law and bioethics with the human rights, international law, modern bioethical principles”**, describes modern bioethical principles in detail, shows the interaction of medical law and bioethics with human rights and international law.

At the end of the last century, bioethics arose at the crossroads of medicine, biology, law, ethics, philosophy, theology, sociology, psychology and other sciences and began to go beyond them. Over time, bioethics has become a movement for the protection of human rights in the medical and biological spheres, and after becoming a new, independent scientific field, gaining support from the United Nations Educational, Scientific and Cultural Organization - UNESCO, it has become one of its main priorities. With the application of modern technological innovations in health, the protection of human interests and rights, patient rights and dignity, the rights of health workers began to rise more often and more sharply, because behind these technological innovations there is often still a lack of great scientific experience, the approach of certain experiments, on the one hand, and big business interests, trade, commerce, and sometimes their interests may not coincide with the interests of society, human, citizen. Such a historical process raised the need for new legal regulation of public relations and led to the formation of a new science of medical law (health law) at the intersection of several legal sciences in the field of bioethics.

After adoption and creation the Universal Declaration of Human Rights of 1948, the Nuremberg Code, the Helsinki Declaration of the World Medical Association on the ethical principles of medical research on humans, the 1975 Declaration of the UN General Assembly on the use of scientific and technical progress for the sake of peace and the welfare of mankind, The Lisbon Declaration on the rights of the patients, the Convention for the Protection of Human Rights and Human Dignity in the Application of Advances in Biology



and Medicine (Oviedo Convention), the Copenhagen Declaration on Social Development, the Ljubljana Charter on Health Reforms, the UNESCO Universal Declaration on the Human Genome and Human Rights, Convention on the Rights of the Child, UNESCO Resolution on Bioethics and Children's Rights, European Charter on Patients' Rights, ECOSOC Resolution on Human Rights and Bioethics, UNESCO Declaration on Human Genetic Data, Genetic Confidentiality and Non-Discrimination ECOSOC resolution, the UN Declaration on Human Cloning and other important declarations and resolutions of the UN General Assembly, in 2005 the UNESCO "General Declaration on Bioethics and Human Rights" was adopted. This became a culminating moment in the history of the development of bioethics and medical law. First time ever this international-legal document was a clear demonstration of the direct convergence of bioethical principles with human rights and international law. In 2005, the entire international community - 193 UNESCO member states, including Azerbaijan - adopted the UNESCO General Declaration "On Bioethics and Human Rights", embodying the connection of bioethics with human rights with this international legal document, as the name of the document suggests. In this document, for the first time, the world has both defined 15 basic bioethical principles and recommended their inclusion into national legislations:

- 1) Human dignity and human rights
- 2) Benefit and harm
- 3) Autonomy and individual responsibility
- 4) Consent
- 5) Persons without capacity to consent
- 6) Respect for human vulnerability and integrity
- 7) Privacy and confidentiality
- 8) Equity, justice and equality
- 9) Non-discrimination and non-stigmatization
- 10) Respect for cultural diversity and pluralism
- 11) Solidarity and cooperation
- 12) Social responsibility and health
- 13) Sharing of benefits

14) Protection of future generations

15) Protection of environment, biosphere and biodiversity.

Understanding the content of these important principles is of great importance for the correct evaluation of this dissertation, so the essence of these 15 principles in research is revealed in this paragraph.

The second chapter of the dissertation “**Formation of medical law and bioethics in Azerbaijan**” consists of 4 paragraphs. They study the stages of development of medical law and bioethics in Azerbaijan, their formation as a scientific direction, the development of the education system, the development of Azerbaijan's health legislation, the Heydar Aliyev Foundation's contribution to the social development of Azerbaijan in the field of medical law and bioethics.

The first paragraph of the second chapter, “**Stages of development of medical law and bioethics in Azerbaijan**” provides historical information about the ancient origins of medical ethics in our country. The development of medical law and bioethics in Azerbaijan can be divided into 3 major historical stages: the period before USSR, the Soviet period and the period of independence.

For at least 10-15 years since bioethics has emerged in the West, Azerbaijani Soviet doctors have been completely unaware. The Soviet government was very selective in some areas of science and considered them harmful to its ideology. Bioethics also belonged to those sciences and was included in the list of sciences harmful to the ruling ideology. Therefore, in the late 80s and early 90s, ie near the collapse of the Soviet Union, the knowledge of bioethics began to come to Azerbaijan, because at that time it was slowly gaining ground, the policy of reconstruction and openness emerged and modern medicine, the achievements of technical progress in health care began to be used more widely. Academician Zarifa Aliyeva (1923-1985), a famous Azerbaijani physician who lived at that time and even devoted her professional activity to ethical research in medicine during the Soviet era, wrote: “Medicine is developing day by day, it cannot not change, and only one thing remains unchanged - It is also a high moral, ethical and professional requirement for a doctor.”

In the early 90s of the last centuries, under the leadership of national leader Heydar Aliyev, due to the establishment of relations typical of the rule of law in the Republic of Azerbaijan and the expansion of the movement for democratic rights, biology and the interest in medicine in a wide range of social, economic, ethical, and legal problems have been growing. Today, Azerbaijan, as an independent state, is pursuing its own path of free development and expresses its commitment to the protection of human rights, such as life, health, personal integrity and the protection of human dignity, as global standards. At the same time, developed over thousands of years national characteristics, cultural diversity and pluralism of the peoples living in the country are taken into account.

Recent changes in the healthcare system of our country, new relationships, rules of conduct, on the one hand, the increasing urgency of human rights protection and the goal of building a state governed by the rule of law make it necessary to take real practical steps in this area.

The second paragraph of the second chapter **“Formation of medical law and bioethics as a scientific direction in Azerbaijan”** discusses the processes in these areas in the science of independent Azerbaijan. In Azerbaijan, the world's scientific trends and achievements in the field of bioethics have long been associated with the medical and biological sciences. Following the adoption of the Universal Declaration on the Genome and Human Rights at the 29th General Assembly of UNESCO on March 24, 1999, the National Commission of UNESCO in the Republic of Azerbaijan and the Presidium of ANAS created the National Committee for the Ethics of Bioethics, Science and Technology of UNESCO. The main purpose of the Committee is to promote democratic principles of bioethics, considered important in the development of state policy and legislation of Azerbaijan, the promotion of bioethical values and concepts, doctrines in medical-biological, social-humanitarian sciences and Azerbaijani science in general, adoption of new legal norms and the introduction of institutional mechanisms to ensure security as a species, and the development of policies to ensure the care of future

generations. The committee was established within the framework of a public, non-governmental organization under the leadership of a well-known Azerbaijani scientist in the field of biology and biotechnology, academician Jalal Aliyev.

Unfortunately, in recent years, at least since 2010, the activities of the committee have become more invisible and more formal. No meeting of the Committee formed in 2016 by the decision of the Presidium of ANAS was held. It can be said that the most important of the recommendations made by the Committee during its activity in 2003 was the recommendations on ethical committees, their structure and principles governing their work. In those years, many medical and biological institutions established bioethical committees in accordance with these recommendations, but today their activity is almost weak. Among them, there are very few active committees today, including the bioethics committees established by AMU in 2017 and at the Azerbaijan State Academy of Physical Culture and Sports.

Thus, great interest in bioethics has been shown in Azerbaijan since the 2000s. This interest was first expressed by representatives of the medical and biological sciences, new bioethical terms appear for the first time - euthanasia, transplantology, reproductive technologies, genetic engineering, nanotechnologies, cloning, etc. There were not many dissertations in this field at that time, because such a scientific qualification and code did not exist. One of the authors of such rare works was the First Vice-President of the Republic of Azerbaijan Mehriban Aliyeva. Mrs. Mehriban Aliyeva is a doctor, and the problem of euthanasia, one of the most pressing problems of bioethics during her work in Russia, was the main topic of her dissertation and monographs. As a result of these scientific researches, very progressive results have been obtained in this field. This dissertation is one of the first scientific researches in the field of bioethics not only in Azerbaijan, but in the post-Soviet space in general, and is the first research work on euthanasia, which is the most pressing problem of bioethics. Published in 2004 and 2005, "Euthanasia and the Problem of Humanity in Medicine" and "We Choose Life (Euthanasia in the Mirror of Sociology)" are pioneering scientific works not only for

Azerbaijan but for the whole region. These works are directly related to the study and protection of the rights of patients, the right to a dignified death. This can be attributed to the progressive works of that period. For the first time, a more modern and humane approach to euthanasia is shown, rather than the former Soviet mentality, and although euthanasia is not justified, humanistic aspects have been explored and respected in the process. After this work, the interest of philosophers, political scientists and lawyers in bioethics is growing.

The third paragraph of the second chapter, entitled **“Development of medical law and bioethics in the education system of Azerbaijan”** provides information about the ongoing processes in this field since the formation of medical ethics. It is stated that when Azerbaijan was part of the former Soviet Union, future medical workers were taught the ethics of the Soviet doctor. In 1976, the USSR Academy of Sciences developed an interdepartmental medical ethics (deontology) program for the faculties of medicine and pharmacy. This program rightly aimed at forming the spiritual consciousness of future doctors and other medical specialists, and in accordance with the traditions of Soviet medicine, it was intended to provide spiritual experience from experienced teachers to students during the period of education in clinical departments.

Together with the political and economic processes that took place in the USSR in the early 90s, economic and political revolutions created new conditions, which resulted in the rapid development of new political thought throughout the entire territory of the union state. The political system of the states has completely changed. In the post-Soviet space, independent states were created that revived their history, national psychology, and state interests. AR became an independent state. In the period of independence, work was started to include the subject of bioethics and medical law in the training programs of educational institutions, to create new scientific specialties and to register new scientific codes for these subjects. Unlike developed democratic states, in none of the CIS countries, including Azerbaijan, for many years there were no high-level specialists specializing in the field of bioethics and medical law, and

since there were no specialty codes in this field, the process of training candidates of sciences and doctors was not carried out. That is why medical workers, philosophers, or experts from other fields have been involved in this field when necessary. Neither Azerbaijan nor the CIS did not have these qualifications in the "List of Scientific Workers' Qualifications". Dissertations dealing with bioethical problems were defended in different countries of the CIS on the basis of the code of individual specialties. These subjects were generally not taught at the post-graduate level of medical education, medical schools and law schools.

The main work in this field accelerated after the establishment of the Bureau in 2010. The next wave in the development of bioethical and medical law in the country began during the years of the Bureau's activity in ANAS. After the 18th session of UNESCO's International Bioethics Committee held in Baku in 2011, great work was done in the field of bioethics and medical law development in Azerbaijan. A cooperation agreement was signed between BSU and UNESCO. In 2011-2014, experts of UNESCO, DTHA, who were invited to the Institute of Human Rights of ANAS, gave lectures to future bioethics and medical law teachers, students and graduate students, under our leadership at the Institute, the Basic Program of UNESCO Bioethics Education, "Informed Consent" and educational brochures "Reproductive health and ethics" were translated into Azerbaijani and published. Bioethics and medical law course has been taught at the Faculty of Law of BSU since 2011.

The fourth paragraph of the second chapter titled **“The contribution of the Heydar Aliyev Foundation to the social development of Azerbaijan, the place of Azerbaijan in international cooperation in the field of medical law and bioethics”** provides information about the national leader's rich heritage of statehood, the widespread promotion of his immortal ideas and their practical application and transmission to future generations that are of special importance in the era of modern globalization. Thus, during its existence, the Foundation has been actively involved in increasing the role of science and technology in solving socio-

economic problems in the country, assisting in the creation and development of the national innovation system, using democratic forms of competition in science, creating conditions for inculcating the creative potential of scientists. has always helped to train highly qualified personnel through education and internships. The Heydar Aliyev Foundation, in cooperation with UNESCO, ISESCO and other international organizations and foundations, has always supported the study of the achievements and experience of world science, their wide application in the socio-economic spheres of the republic, the establishment and development of relations with foreign scientific centers.

The merits of the First Vice-President of our country Mehriban Aliyeva in this field should be especially emphasized. High moral qualities, such as humanism, care and humanity, which are characteristic of Azerbaijani women doctors, are more vividly embodied in the personality of Mehriban Aliyeva. The Foundation pays special attention to gender issues, the elimination of all violence against women and stereotypes that contradict the traditional Azerbaijani family.

The third chapter of the dissertation entitled **“New challenges, problems and trends in the subject of medical law and bioethics”**, is the largest part by the volume. It consists of 11 paragraphs, each covering a range of actual bioethical and medical law issues.

The first paragraph of the chapter **is named “The famous cases shown to the public the need for medical law”**. Here, the famous cases known to the world after the Second World War, the Nuremberg process like "Tuskegee Syphilis Study", Willowbrook School but also famous resonated cases in Azerbaijan that have shaken our society and public opinion (Elina Hajiyeva, Tabbassum Mammadova, Tarlan Aliyeva' and others cases) are shown.

The second paragraph is entitled **“Basic bioethical principles evolving into modern human rights.”** Thus, human rights established in international law create a platform for the development of bioethical principles, and subsequently new rights are formed based on those principles. The right to life and health are international rights

that form the basis of bioethical principles aimed at protecting human rights. The formation of bioethical principles is a platform for the further expansion of human rights.

The third paragraph of the third chapter is devoted to **“Patients’ rights”**. There is information about the expansion of the relationship between the patient and the doctor as a result of the development of science and law, and in some cases it has completely changed. Various international and local organizations, including American Medical Association, Russian Medical Association, German Medical Association, British Medical Association, etc. approaches are analyzed in this context. Also, information is provided about the activities of specialized organizations such as the American Hospital Association. The laws of various foreign countries are indicated in the field of patient rights. However, unfortunately, a separate law in this field has not yet been adopted in our country. In this paragraph, a number of proposals that can realize improvement in this direction, including through the application of bioethical principles, are included. At the same time, the clauses of this paragraph consistently cover the bioethical principles of Informed Consent, Confidentiality, Autonomy, Justice and Equality, Sharing of Benefits, and Cooperation.

The fourth paragraph is devoted to **“Commercialization, new technologies and globalization in healthcare”**. Globalization, the unprecedented development of science, the application of nanotechnologies and other processes have a great impact on the fields of medicine and healthcare, doctor-patient relations and form new bioethical challenges. In response to these, both the fields of bioethics and law should be improved. In this paragraph, the issues of organ and tissue transplantation, new reproductive technologies, human genome and genetic engineering, eugenics, cloning, genetically modified food products are studied in separate paragraphs from a legal and bioethical point of view.

**“Medical errors, accidents and legal liability in healthcare”** is the fifth paragraph of the second chapter. Unfortunately, in many countries, including Azerbaijan, their



statistics, research and analysis are not conducted. Therefore, international experience, trends in the world, events known from our media are analyzed here, existing gaps are shown and suggestions are made.

**"Health Inequalities, Corruption and Transnational Crime"** is the sixth paragraph of the second chapter. The causes of health care disparities are reported to be diverse and are being explored. The situation of latent and widespread corruption in healthcare is analyzed. It is shown to violate many bioethical principles, including how it destroys "equality, justice, and equity." The spread of corruption in world health care and the rise of transnational crime in this area are mentioned in the dissertation.

The seventh paragraph is **"New challenges in healthcare such as COVID-19"**. Indeed, the coronavirus proved to the whole world how important the health system is. Various bioethical and legal issues have emerged during the pandemic. However, his most important conclusion was that medicine is not an independent field. It is closely related to law, economics, politics, and bioethics. It showed how fragile the rights of vulnerable groups of the public are, revealed the inequalities that exist in the world, and most importantly - proved the high probability that every person can easily be turned into a patient, and how valuable the medical right is in this case.

In the next two paragraphs - the eighth **"The beginning of life: current bioethical and legal problems"** and the ninth **"End of life and death: current bioethical and legal problems"** - various bioethical and legal problems from birth to death of a person (embryo status, abortions, etc.) and in the final stages of life, current bioethical and legal dilemmas and issues related to death (palliative care, euthanasia, etc.) are explored. According to the topics mentioned in each paragraph, local and international experience and legislation are analyzed in this field.

The tenth paragraph is dedicated to the very sensitive topic of human rights and provides information on the **"The rights of persons with disabilities and assistive technologies"** in this context. International documents and existing laws in different countries are

also indicated here, the importance of inclusivity and bioethical principles are noted.

The eleventh paragraph is the last paragraph of the chapter and called "**The right to live in a healthy environment, food safety and bioterrorism**". Here it is shown that the state of the environment is an important factor that directly affects human health. Therefore, the right to live in safe conditions for environmental protection and health is considered an integral part of human rights today. Therefore, the right to health, which is an important part of medical law, cannot be isolated from the state of the environment, the quality and safety of food, on which health directly depends. Threats related to food safety, GMO technologies and bioterrorism, international legal documents in this field, and the work done in our country are examined here.

The fourth and last chapter of the dissertation reflect the topic "**Prospects for the development of medical law and bioethics in Azerbaijan**" and consists of four paragraphs. Various recommendations are given here in accordance with the results obtained as a result of the research. Thus, the first paragraph of the chapter is entitled "**Prospects for the development of medical law in the field of science and education in Azerbaijan.**" Here, the author provides information about the prospects for the development of medical law, which can improve our national science and education, based on international experience. According to the author, today the teaching of medical law and bioethics in all modern medical universities and secondary medical schools is of great importance. However, unfortunately, there are some gaps in the education system of our country in this area. Today, students graduating from the medical university are well versed in diseases, how to treat diseases, diagnose, prescribe drugs. But they do not know in what legal format to regulate the rules of treatment of the patient in accordance with the requirements of modern times. Doctors need to develop legal awareness. The patient has the same rights as a citizen. We must admit that physicians now have many goals and responsibilities in addition to healing.

Bioethics as a scientific field has a very wide field of application and covers various fields through bioethical principles. The development of any direction must begin, first of all, with the formation of scientific thought and subsequent research. We believe that there is an urgent need to develop and strengthen relations in the mentioned areas in national science.

Medical law is a young, dynamically developing field for our country. As mentioned earlier, the concept of “medical law” has long been practiced in many countries, especially in the United States, European countries and brother Turkey. Unfortunately, there is still a gap in this area in Azerbaijan. The main reason lies in the resistance of the leaders of the medical community to the concept of human rights in their monopolies, leaders who do not like the intervention of specialists and organizations at all.

At present, in the framework of this dissertation and other works like it, scholars conducting research in the field of bioethics or medical law are entitled to defend them under the code “international law; human rights”. However, for example, in various universities and institutes around the world, faculties train specialists not only in the field of “medical law” and “bioethics”, but also in more specific fields. Thus, for a long time, the University of Manchester has a department of medical law, and within the framework of the master's degree in “Healthcare Ethics and Law” and so on specialization in the field is presented. Master's degree in Law, Medicine and Health is available at the Universities of Edinburgh and Liverpool. Dual-certified programs are gaining popularity in many countries, especially in the United States. Harvard University offers students the opportunity to earn two specializations at the same time, the Joint Degree in Law and Public Health.

The scientific approach also implies that we use already proven scientific methods and approaches to study innovations. It is no coincidence that throughout our dissertation, we have studied in detail the relationship between bioethics and medical law and medical ethics, forensic medicine, international law and human rights. Because it is the representatives of these specialties who have more scientific

understanding and competence when considering bioethical problems and medical-legal issues. In terms of the general development of bioethics and medical law, they are closely related to human rights. It is clear that the right to health and life are the first, inalienable, fundamental human rights. However, due to the lack of relevant legislation in the national science, medical law has not been sufficiently studied. For example, at Boston University, Health Law, Ethics and Human Rights is not only studied as an independent field, but also are studied within the courses of Health and Human Rights, Public Health Law, and so on.

In today's fast-changing world of high technology, we can and must not allow any setbacks. Azerbaijan is an actively developing country. President Ilham Aliyev talks about the construction of smart villages and even cities in the liberated territories. The high support of the country's leadership in this direction can be felt. Therefore, as representatives of the scientific community, we must do our best to develop science in our field. And in this regard, the study of world experience can be extremely useful.

The second paragraph of the fourth chapter, **“The place of medical law and bioethics in the legislation, public policy of Azerbaijan”** examines our healthcare legislation, medical law and laws related to bioethics. The modern healthcare legislation of the independent AR is formed in accordance with international recommendations, taking into account the national characteristics and cultural diversity of the peoples living in the country. The list and characteristics of the patient's rights established in international legal documents are not unconditional and complete for each state. National laws provide citizens with rights determined by the essence of the social system, the level of economic and social development, historical and cultural traditions, moral and ethical characteristics of the people's spirituality.

As in all democratic countries, human life and health are the main priority in our civil society and are considered as universal values. Article 148 of the Constitution of the Republic of Azerbaijan states that "the international agreements to which the Republic of

Azerbaijan is a party are an integral part of the legal system of the Republic of Azerbaijan," and the principles and norms of international law reflected in the international documents and treaties to which Azerbaijan is a party and a party have become an integral part of its legislation.

In addition to the "Law of the Republic of Azerbaijan on the Protection of Public Health", about 30 other laws have been adopted over the past 30 years, which constitute the healthcare legislation of the Republic of Azerbaijan and regulate various aspects of healthcare and medical activity. For example, pharmaceutical activity is regulated by the 1996 Law "On Pharmaceutical Activity" (Law on Drugs, 2006), AIDS treatment is regulated by the 1996 (2010) Law "On Combating Disease Caused by Human Immunodeficiency Virus", transplantation operations - by the 1999 Law "On Transplantation of Human Organs and Tissues", private medical activity - by the law of 1999 (2020) "On private medical activity", etc. Laws "On the fight against tuberculosis in AR" (2000), "On psychiatric care" (2001), "On state care for people with diabetes" (2003), "On blood, blood components and blood service" (2005), "Oncological care" (2006) and other ones are also cited as an example.

The country's political system is democratic. What can be done to better justify the development of human rights legislation? Also, as we have seen in the previous chapters, human health is precisely a human right. For this reason, the development of the field of medical law is also important in the context of politics. We are sure that this scientific direction is an area where it is possible to provide almost 100% support from the population. And this goes directly to the political level. As for bioethics, its field of application is so wide that it is unlikely that someone will remain indifferent to these topics. It is difficult to find a person who does not care about how the medical field is developing. However, medicine is a field where bioethics, we believe, can be applied to the maximum extent. Unfortunately, artificial intelligence and other high scientific researches are poorly developed in our country. On the other hand, at the same time it opens new perspectives.

As we mentioned earlier, since the development of science cannot occur in isolation from legislation, we dare to think that the absence of something or the poor development of any field is a kind of new opportunity. After all, it is not for nothing that there is a tendency to search for new scientific directions and fields all over the world. Indeed, much has already been learned in many developed countries, especially in Europe and the United States. We have a wide area for further scientific and practical work. I would call it a privilege because we can learn from existing experience. Comparing the positive and negative aspects, it will be easier for us to look for the most appropriate way for the state to develop these areas, and this is again related to the policy area.

In this context, a number of proposals can be made by studying the international experience, including public discussions with the participation of stakeholders, professional communities and representatives of public organizations, including patient associations. For example, in the United States and other developed countries, there are non-profit structures that specifically support the incurable or chronically ill. The American Cancer Society alone has invested more than \$5 billion in cancer research since 1946. In addition, the company's website has information about a 24/7 hotline. Imagine the thoughtfulness of the help provided to patients. The site contains not only all information about the disease, but also research information, news, recommendations, etc. also takes place. We consider this example very important from the perspective of implementation in our country. Indeed, the activation of such social structures is of great importance in terms of protecting patient rights and human rights. Often, after hearing the diagnosis, patients turn to Google to search for information, where the information is not always accurate, up-to-date and correct. Therefore, the intensification of activities in this direction can become one of the activities of the Ethics Committees in the field of patient rights protection.

Bioethics and medical law are closely related to human rights as we have seen in this research work. Therefore, these two fields have great prospects in terms of human rights protection. Since human

rights is an area of great influence and interdependence of policy and legislation, we believe it will be equally crucial for medical law. As we have seen, by studying international experience, patient rights are not only an important part of medical rights, but also of human rights. Therefore, there is an urgent need and great prospects for the development of medical law in Azerbaijan. However, unfortunately, we are still at the stage of developing legislation in the field of patient rights, so it is too early to talk about the adaptation of high technologies to modern development. Science has a very strong influence on society, so we must not forget the ethical / bioethical side. Yes, science opens up great opportunities, but at the same time it raises new problems. At this stage, we essentially have two options: to stop our development and develop technologies (sticking to the concepts of the past) or to move forward and develop, but in this case, we must be ready to improve our legislation in areas of development as well.

The third paragraph of the fourth chapter reflects the topic **“Establishment of bioethical committees and development of medical advocacy in Azerbaijan.”** While examining international experience in the application of medical law, we have often come across various ethical or bioethical committees. The Azerbaijan Academy of Sciences has a UNESCO National Committee on Bioethics, Ethics of Science and Technology, as well as bioethics committees at the Azerbaijan Medical University and the Azerbaijan State Academy of Physical Culture and Sports. However, unfortunately, they operate only as scientific structures, the activities of the committee at ANAS are practically frozen. Due to the lack of relevant national legislation on bioethical committees in Azerbaijan, there is no legal obligation to establish such structures within hospitals and other medical institutions.

Azerbaijan is a country that has shown interest in the development of bioethics and is supported by the country's leadership at the highest level. There is an important fact regarding the implementation of the bioethical principles of the “Universal Declaration on Bioethics and Human Rights” adopted in 2005. Thus, according to Article 19 of the Declaration, “Independent, multifaceted

and pluralistic ethics committees should be established, they should be given the necessary level of support and their activities should be supported at the appropriate level ...". Among the objectives of its activities, this article states the following:

- a) "assessment of ethical, legal, scientific and social issues related to research projects, which include human participants;
- b) advice on ethical issues in clinical medicine;
- c) to contribute to the assessment of scientific and technological progress, giving recommendations and the preparation of instructions on matters falling within the scope of this Declaration;
- d) promotion of discussions, education and public awareness on bioethical issues and participation in their solution."

In this context, our attention is particularly drawn to paragraphs b and d. We believe that the establishment of the proposed Bioethics Committee can serve these purposes and cope with this function.

Members of ethics committees can come from a variety of professions that are interested in improving patient protection and providing appropriate health policies. The main purpose of the work of such committees is, first of all, to protect the rights of patients and to ensure compliance with medical law and ethical norms in medical practice. It is an advisory body for both physicians and patients or their legal representatives during treatment.

This paragraph presents proposals for the establishment of bioethical committees, areas of activity and medical advocacy.

The last paragraph of the dissertation is entitled "**Perspectives of the common development of forensic-medical expertise and forensic medicine with medical law and bioethics in Azerbaijan**". It states that the advancement of forensic medicine is not only expressed in its ability to assist law enforcement agencies. It is also the elimination of various types of traumatism, poisoning, medical errors, prevention of untimely deaths, etc. that should assist health authorities in the field, and at the same time, should become a flagship of developing medical law and bioethics. For this purpose, it would be



appropriate to create a structure that professionally collects the necessary information on the assessment of the quality of treatment in the country's medical institutions, to create a constantly updated database, as well as to process and analyze the information. Thus, it would be possible to support the activities of health authorities with the following measures:

- holding clinical-anatomical and polyclinic-anatomical conferences in medical institutions;

- creation of special institutions consisting of reputable scientists and specialists, creating an atmosphere of "Medical Courts" in the Ministry of Health. Here, the Forensic Medical Council should act as a judge. These institutions must objectively review the evidence of the prosecuting party (the injured party) and the defended party (doctors, medical personnel), decide in which cases to make administrative decisions, and in which cases to refer the case to law enforcement and judicial authorities;

- to timely inform the management of health authorities about the facts of differences in clinical and anatomical diagnoses detected during forensic medical expertise, defects in diagnosis, treatment and medical documentation. Such information can be both operational and collective (quarterly, annual);

- conducting an epidemiological analysis of traumatism, domestic and industrial poisoning, sudden death cases, traffic injuries;

- carrying out sanitary-educational works on the prevention of traffic accidents, street, domestic, industrial injuries, drug addiction and alcoholism, poisoning, etc....

In the **conclusion** part of the dissertation, the information obtained as a result of the research is presented in a systematic form and reflects the main theoretical and practical recommendations. The conclusion part of dissertation shows 13 results:

1. There should be "medical law" in Azerbaijan's law system, "health legislation" in its legislation, "medical law and bioethics" in legal education, "medical legal advocacy" and "medical lawyers" in legal practice.

2. The inclusion of the new specialty "medical law" in the list of legal sciences of the nomenclature of scientific specialties of the Supreme Attestation Commission under President of Azerbaijan, the rule of law. the strengthening of legal and ethical norms in the healthcare of Azerbaijan will happen with formation of lawyers who understand the field and can investigate current and future problems.

3. The formation of precise legal mechanisms in the field of medical law and bioethics in Azerbaijan should begin with the improvement of our health legislation.

4. The activity of bioethical committees should be strengthened. Following the example of many developed countries, in order to improve the decision-making process in Azerbaijan in matters related to human life and health during new challenges, independent bioethical committees should operate under the higher bodies of Azerbaijan.

5. The range of patients' rights should be expanded.

6. The concept of "informed consent" should be included as a basic fundamental doctrine in the health legislation of AR.

7. Steps should be taken to develop palliative care.

8. The sector of rehabilitation and assistive technologies should be strengthened in Azerbaijan.

9. Considering the importance of environmental issues, ecological security, and food safety for human health and life, their integration with medical law and biotics should be taken into account.

10. This is necessary to strengthen the legal mechanisms regulating the import, distribution, sale, advertising and use of products containing GMOs.

11. Education in the field of medical law and bioethics should be improved.

12. The formation of bioethical awareness among legal and medical scientists, professionals and health authorities is extremely important, and education in this field plays an essential role.

13. The development of medical legal advocacy in Azerbaijan should be included in the national legal practice.

**The names and publications of the most important 77 scientific works from published more than 220, which was published by the author in relation to the topic of the dissertation, are listed below in chronological order (including 30 publications, published at international summarizing and indexing systems like Thomson Reuters, Web of Science, Scopus, Russian Scientific Citation Index and ERIH PLUS):**

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