

Feasibility Study of Jurisprudential Substitution of Retribution in Kind (Qisas al-Nafs) with Organ Donation

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Abstract

This study, employing a descriptive-analytical and inferential-maqāṣidī (objectives-based) approach, reexamines one of the most fundamental and controversial penal rulings in Islam—Qisas al-Nafs (retribution for murder). Drawing on the principles of Imamiyyah jurisprudence, it aims to reinterpret the philosophy of Qisas through the lenses of the Maqāṣid al-Shariah (objectives of Islamic law) and human dignity, exploring the feasibility of fully substituting organ donation for the execution of retribution in kind. The central question of this research arises from the Qur’anic declaration that the ultimate purpose of Qisas is the realization of justice and the preservation of collective life, as expressed in Surah al-Baqarah (2:179): “And there is life for you in retribution, O people of reason.” If the divine objective of Qisas is to sustain life, the study asks whether it is possible—by moving beyond the traditional method of taking life—to give life a concrete meaning through the donation of the offender’s organs to those on the brink of death. Could such a transformation not only maintain the deterrent and just nature of Qisas, but also embody its deeper meaning of life more profoundly? The research is founded on the distinction between the immutable essence of the ruling (ḥukm thābit) and the mutable method of its execution, providing a legitimate foundation for innovation in penal mechanisms. From this perspective, Qisas, as a divine principle, remains intact at the level of its essence, yet at the level of enforcement it could be realized not through the physical taking of life but through the continuation of life via organ donation. This substitution thus becomes an expression of the Qur’anic objective of life in Qisas—transcending the dichotomy of death and life, and seeking justice through the regeneration of life rather than its elimination. Findings of the study indicate that within Imamiyyah jurisprudence, principles such as ihsān fi al-qatl (benevolence in execution), the prohibition of mutilation, ḥurmat al-mu’min mayyitan ka-ḥurmatihī ḥayyan (the sanctity of the believer after death equal to his sanctity in life), and al-darūrāt tubīḥ al-maḥzūrāt (necessity permits the prohibited) collectively provide the jurisprudential capacity for such transformation—provided that a rigorous institutional framework is established. This framework must include the verification of death according to recognized scientific and religious criteria, the obtaining of informed and voluntary consent, strict separation between judicial and medical authorities, and enhanced ethical and religious oversight. Under such a model, the offender’s body would not serve as an instrument of vengeance but as a source of life for others, elevating the Qur’anic principle “and in retribution there is life for you” from a moral slogan to a tangible social reality. The final conclusion of the research asserts that the full substitution of organ donation for the execution of Qisas, when carried out under rigorous religious, ethical, and institutional supervision, is not inconsistent with the principles of Islamic justice. Rather, it represents a manifestation of rationality and humanism within the Shariah.

Keywords: Retribution in kind (Qisas al-Nafs); bodily dignity; post-mortem organ donation; Imamiyyah jurisprudence and comparative law; medical ethics and governance of punishment.

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1. Introduction

The principle of *Qisas al-Nafs*—retribution for intentional homicide—represents one of the most profound and morally charged dimensions of Islamic criminal jurisprudence. Rooted in the Qur’anic assertion that “and there is life for you in retribution,” it embodies a paradox at the heart of divine justice: the act of taking life as a means of preserving life. Over centuries, jurists and theologians have interpreted this injunction as a balance between individual justice and societal order, where retribution serves not only to compensate for the loss of life but also to deter violence and sustain communal harmony. Yet, the evolving moral, medical, and philosophical landscapes of contemporary societies invite renewed reflection on whether the *form* of this divine command must remain immutable, or whether its *purpose*—the preservation of life—may be realized through new mechanisms.

In recent decades, organ donation has emerged as one of humanity’s most remarkable medical achievements, embodying both altruism and the extension of life. When juxtaposed with *Qisas al-Nafs*, it raises a transformative ethical question: could the offender’s death become a means not only of justice but also of giving life to others? This inquiry does not aim to undermine the authority of divine rulings; rather, it seeks to explore whether the objectives of Islamic law (*Maqāṣid al-Shariah*)—justice, mercy, and the preservation of life—can be harmonized with the moral and scientific possibilities of the present age. Such a reexamination requires moving beyond the literalist reading of penal retribution toward a deeper engagement with its spiritual and societal intent.

The study adopts a jurisprudential and philosophical lens to examine whether full substitution of retribution by post-mortem organ donation could maintain the deterrent, equitable, and sacred nature of *Qisas* while transforming its practical implications from the elimination of life to its regeneration. This transformation implies distinguishing between the immutable essence of the divine command and the mutable method of its enforcement, thereby maintaining fidelity to divine justice while allowing adaptive mechanisms of implementation. The research further investigates the ethical, legal, and institutional conditions necessary for such substitution, emphasizing the need for scientific verification of death, informed consent, separation of medical and judicial authority, and oversight grounded in religious and humanistic values.

The issue is not merely legal or procedural—it represents a philosophical confrontation between vengeance and compassion, finality and continuity, justice and mercy. If the sanctity of human life is the ultimate objective of divine justice, then realizing *life through life* rather than *life through death* may embody a higher form of justice, one consistent with both reason and faith. By examining the theoretical and practical foundations of this potential substitution, the present study seeks to contribute to the evolving discourse on Islamic criminal law, bioethics, and the governance of punishment in a modern moral framework. Ultimately, it argues that true fidelity to the spirit of *Shariah* lies not in static literalism but in a dynamic realization of its divine purposes in every age.

2. A Jurisprudential–Legal Reappraisal of the Philosophy of *Qisās al-Nafs* in Light of the Maqāṣid al-Sharī‘ah and Criminal Justice

The philosophy of *Qisās al-Nafs* in Imāmī jurisprudence—viewed through the higher objectives of the Sharī‘ah—is not centered on vengeance or the mere deprivation of the offender’s life, but on preserving collective life and safeguarding social order. The Qur’anic declaration “And for you in retribution is life, O people of reason” (al-Baqarah 2:179), from exegetical and rational perspectives, signifies that the institution of *qisās* is intended to curb retaliatory fury and replace it with a legal, rational order—transforming blind, unregulated blood-feud into the lawful right of the victim’s heirs and freeing society from the endless cycle of violence. In this sense, *qisās* in Imāmī thought functions as a divinely ordained mechanism to realize penal justice, ensure respect for inviolable blood, and purify the egoistic impulse to avenge. Accordingly, any discussion of modifying or adjusting its mode of execution must be examined within this life-affirming philosophy: if the ultimate aim is the preservation of life and the maintenance of social order, then reforms in method must reinforce, not contradict, those objectives. (Shahmalakpour Khoshkbijari, 2011)

The juristic-ethical maxim *al-iḥsān fī al-qatlah* (benevolence in execution), found in reliable Shi‘i reports, shows that even at the moment of carrying out *qisās*, human dignity and the principle of beneficence toward the offender are preserved: God has commanded that killing, when lawfully required, be done in the best manner, and the Prophet made it a measure of justice in punishment. From this angle, the philosophy of *qisās* in Imāmī fiqh bears no relation to torture, mutilation, or humiliation; its aim is strictly the realization of penal justice through a proportionate, swift sanction free of superfluous suffering. Therefore, the method of *qisās* must cohere with humane, legal, and rational standards—both to vindicate the right of the heirs and to honor human dignity as God’s creation. For this reason, Islamic penal fiqh structures the manner of execution so that no vengeful or sadistic element inheres in it, a foundation that supports openness to change in how *qisās* is executed. (Al-Majlisi, 1983; Al-Rayshahri, 2000)

2.1. *Redefining Qisās al-Nafs as a Private Right within Islam’s Restorative-Justice Architecture*

Re-reading the philosophy of *qisās* within Islam’s restorative-justice framework begins with recognizing that, in Imāmī fiqh, *qisās* is not merely a desert-based sanction for the offender; it is a mechanism to restore social equilibrium and prevent the spread of violence. Reflecting on “And for you in retribution is life” and detailed analyses in *Kitāb al-Qisās*, the jurist emphasizes that the objective of legislating *qisās* is the establishment of order and preservation of life, not the amplification of pain. Hence, when vindicating the right, exceeding what is necessary or adding gratuitous harm lacks justification and contravenes the higher ends of the Sharī‘ah. This maqāṣid-oriented rationality seeks to move criminal justice from retribution toward a constructive, life-affirming process, ensuring that the heirs’ right is realized within justice and with respect for human dignity. Thus, *qisās* is re-positioned from a purely negative deprivation to a positive instrument for preserving life and social order—such that *qisās*, rather than marking an end to life, becomes a means of sustaining it. (Al-Najafi, 1984)

Moreover, Imāmī fiqh structures the heirs’ right so they may choose among *qisās*, blood money, or pardon. This tripartite choice reflects not only a private entitlement but also the spirit of restorative justice in Islamic criminal law. Jurists, invoking the rule of the heir’s discretion, underscore the preference for pardon—especially where it calms social tensions and repairs human relationships—and often deem “pardon for compensation” socially and ethically superior. In this reading, *qisās* is a flexible right whose ultimate telos is repair and satisfaction, not the intensification of violence; such a maqāṣid-aligned interpretation enables the continuation of life and the rebuilding of trust within the criminal process, opening space to integrate moral principles with penal justice. (Al-Shahid al-Thani, 1992)

At the legal-policy level—particularly in contemporary Iranian criminal justice—this intellectual shift is visible in debates that frame transformations of *qisās* as instruments for restorative justice. The legal system seeks, through settlement, reparation, and mutual agreement, to balance the heirs’ private right with the public interest, moving *qisās* from a strictly punitive mold toward a preventive and corrective function. Reflected in juristic sources and recent legal practices, this suggests that *qisās al-nafs* in Islamic criminal law is not a mere vehicle of revenge but a tool for preventing violence, advancing social health, and reviving human dignity—showing that restorative justice is rooted in Islamic fiqh and today can be rationally and humanely reinterpreted. (Moradi, 2018)

2.2. *Analyzing the Purpose of Legislating Qisās: Emphasis on Preserving Life and Social Order*

At its core, the legislation of *qisās* in Imāmī fiqh is a structured effort to protect human life and secure social order by systematizing the response to intentional homicide and halting unregulated vendetta. While the *lā ḍarar* principle is fundamental to negating harmful rulings, Imāmī jurists hold that *qisās* and other fixed and compensatory sanctions are excluded by specialization from its ambit, because they serve higher interests such as security, collective life, and public justice. Even so, principled reasoning based on *lā ḍarar* allows a reconsideration of *how qisās* is carried out—avoiding superfluous harm and undue hardship—so that, although the essence of *qisās* remains within the domain of public interest, its modality must be aligned with the philosophy of life and human dignity. This opens the way to reinterpreting *qisās* in light of the maqāṣid and Islamic ethics: just execution of *qisās* is thereby understood as the realization of collective life rather than the mere taking of an individual life. (Al-Hashimi al-Shahrudi, 2005; Al-Mustafawi, 2005)

In Imāmī law, the principle of the deceased's dignity (*ḥurmat al-mayyit*) imposes moral-legal limits on any post-mortem intervention, prohibiting mutilation or non-necessary exploitation. Nevertheless, authoritative contemporary fatwas and official responses clarify that if saving a protected life depends on removing an organ from the deceased—without entailing mutilation or violation—such removal is permissible with the testator's bequest or the guardian's consent. This exception shows that, within the maqāṣid framework, protecting life is among the most paramount interests and may override certain customary constraints or derivative prohibitions. By analogy, in *qisās*, that same primacy of life can ground juristic discussion on reforming methods of execution so that bodily dignity is preserved while the supreme objective of life is fulfilled. (Office of the Supreme Leader, 2015)

The prohibition of mutilation and the obligation of *al-iḥsān fī al-qatlah* are likewise situated in this framework, for Imāmī fiqh has long regarded the degradation of the body—even during execution of a lawful sanction—as a transgression beyond the Sharī'ah's limits. On this basis, vindication through *qisās* is confined to equivalent killing (*qatl muqābil*) alone, and any gratuitous, spectacular, or pain-intensifying addition is forbidden. The hadith corpus in the chapters on the ban of mutilation undergirds the rule that *qisās* must proceed with humane observance and respect for the creaturely dignity bestowed by God—indicating that the Sharī'ah, even when exacting penal justice, does not abandon ethical bounds and sees justice conjoined with divine compassion, not opposed to it. (Al-Hurr al-Amili, 1993)

Among Imāmī jurists, a well-supported view maintains that strict equivalence of *instrument* (*mamāthalah fī al-ālah*) is not a legal requirement for *qisās*; the criterion is rather the taking of life by an equivalent result (*izhāq al-naḥs bi-l-mithl*), not reproducing the offender's exact means—especially when such replication could entail mutilation or undue suffering. Consequently, choosing a method that is less distressing, quicker, and more consonant with human dignity does not conflict with Sharī'ah foundations; to the contrary, it accords with the spirit and telos of *qisās*—preserving dignity and life. Thus, Imāmī fiqh has the conceptual and principled capacity to accept reforms in the methods of *qisās*, so long as they remain within the bounds of Sharī'ah justice and the religion's rational aims, with the philosophy of life in *qisās* remaining central. (Al-Tusi, 1967)

2.3. Revisiting the Jurisprudential and Legal Foundations of *Qisās al-Nafs* with a Comparative Approach in Iran's Criminal System

In a comparative reading of *qisās* within Iran's 2013 criminal system, the point of departure is that the legislator, at the level of normative criminal policy, designates *qisās* as the principal sanction for intentional homicide, while precisely regulating the conditions of vindication, the heirs' scope of choice, the roles of prosecutor and court, and compensatory mechanisms such as the *fāḍil-diya*. This functional balance both keeps the heirs' private right enforceable and, by instituting dignity- and health-oriented constraints, enables policymaking on *how qisās* is executed in response to medical advances and professional ethics—so that the ruling, faithful to *qisās*'s life-oriented aim, is protected from gratuitous suffering, mutilation, or humiliation, and methods can be aligned with humane and rational standards within legal procedures. (Emami, 2017)

The “Bylaw on the Execution of Ḥudūd, Capital Punishments, Amputation, *Qisās* of Life and Limbs, and Wounding... (2019)” introduces an administrative bridge between criminal justice and medical ethics. A key provision contemplates voluntary organ donation by those sentenced to capital punishment, conditioned on valid consent, joint protocols, and layered oversight. Regardless of its strict contours, this regulatory move elevates the debate on the relationship between the philosophy of *qisās* and preserving others' lives from abstract reflection to testable policy—showing that, in the light of maqāṣid and public-health interests, method can be framed so the heirs' private right is not impaired while the superior value of saving life finds space, without neglecting deterrence or human dignity in implementation. (Seyyed Hosseini & Attakouei, 2021)

The 1999 “Law on Organ Transplantation from Deceased Patients or Those with Verified Brain Death” and its 2002 Executive Bylaw—by defining brain death criteria and validating the deceased's bequest or the guardian's consent—build a medical legislation architecture that prioritizes protecting life and bodily dignity, with systematic effects visible in advisory opinions and clinical practice. Philosophically, this signals that Islamic-Iranian criminal policy seeks institutional compatibility—not zero-sum trade-offs—where apparent tensions between executing punishment and saving life arise,

structuring consent, expert oversight, and conflict-of-interest barriers so that right and life can be jointly realized under shared rules. (Sadeghi, 2003)

Iran's medical-law scholarship, drawing on convergent *fiqh* and bioethical frames, has shown that any resort to organ transplantation—whether post-*qisas* of a limb or, where applicable, from capital convicts with valid consent—gains legitimacy only within the constraints of non-mutilation, dignity-centeredness, informed consent, and harmony with domestic instruments and fatwas. At the level of penal philosophy, this literature typically reads *qisas* as serving justice and deterrence, and transplantation as serving preservation of life and the common good; the synthesis therefore lies not in altering the nature of the ruling, but in regulating method and designing joint supervisory protocols—so that *qisas*'s normative functions are not weakened while life-saving medical capacities operate in a safe, ethical framework. (Abbasi, 2017; Khaleghi & Sadrzadeh, 2021; Mir-Khalili, 2017)

Within contemporary collective *fiqh*, boundary-setting also appears in discussions that, to preserve deterrence and the philosophy of sanction, oppose immediate re-attachment of a severed member in *hadd* or *qisas* cases—thereby delineating a line between medical permissibility for saving life and maintaining penal justice's function. In this spirit, Iranian scholarship on the philosophy of capital deprivation stresses fair justice, proportionality, and wisdom in method—clarifying that any procedural innovation must be weighed against reasonable deterrence and human dignity. (Akbari, 2020)

Revisiting the 1999 single-article law on organ transplantation further confirms that the legislator, by conditioning organ removal on a valid bequest or the guardian's consent and on the necessity of transplantation for the recipient's survival, aligns statutory purpose with the life-oriented philosophy of *qisas*—recasting the superficial punishment/life dichotomy into a more precise pairing of desert-based justice and the protection of inviolable life. This legislative logic not only prevents needless harm to bodily dignity but also inspires a reappraisal of *qisas* procedures: in both domains, decision-making pivots on institutionalized consent, expert oversight, and safeguards against abuse, so that legal and medical tools serve a coherent set of values rather than colliding. (Rezaei, 2016; Safaei, 2011)

The 2002 Executive Bylaw—requiring confirmation of brain death by four independent physicians, barring their simultaneous membership on the transplant team, and specifying verification procedures—effectively architects institutional defenses against conflicts of interest and diagnostic error, modeling the rule of law in medicine. The same yardsticks can guide any re-design of life-depriving sanctions: if proposals such as organ donation with the convict's consent or adjusted *qisas* modalities are considered, they must meet the same standards of scientific rigor, role separation, documentation, oversight, and accountability, so that bodily dignity, public health, and social trust are jointly secured and legal authority is strengthened through transparency and answerability. (Office of the Supreme Leader, 2015; Sadeghi, 2003)

Recent health-law studies repeatedly emphasize continuous monitoring of organ-donation regulations, showing that normative coherence in consent, oversight, and equitable access is a necessary condition for institutional sufficiency in an effective transplant regime. Transposed to contemporary criminal justice, this implies that any change in execution methods—including within *qisas al-nafs*—must proceed, in harmony with dignity-centered bioethics, through periodic evaluation, outcome-based indicators, and public reporting, preserving both deterrence and rights while activating medicine's life-saving capacities within a public-trust context. (Sadeghi et al., 2021)

Persian-language scholarship has also explored the specific relationship between a *qisas* convict's consent and organ donation, showing how precise legal designs—absolute separation between the authority executing the sentence and the body obtaining medical consent, guarantees of voluntariness free of coercion, the presence of an independent bioethics observer, and a right of withdrawal prior to the point of irreversibility—can mediate among the heirs' private right, public health interests, and the convict's dignity. Especially in theses and interdisciplinary studies, this literature offers valuable policy inputs to align *qisas* execution protocols with dignity-centered, life-affirming considerations and to prevent harmful conflicts between justice and life. (Rezaei, 2016; Safaei, 2011)

3. Reconsidering Organ Donation and Bodily Dignity in the Islamic Penal System

Within the Imāmī *fiqh* framework—where the inviolability of the human body is construed as a divine right rather than a merely customary interest—the persistence of bodily dignity after death is not a moral figure of speech but a binding normative

rule. Consequently, any intervention on a corpse, even with curative intent to save another, is presumptively prohibited unless a genuine necessity—verifiable against Sharī‘ah standards and expert, auditable criteria—is established, and the intervention is strictly confined to the scope of that necessity. The purport of the rule “breaking the bone of a deceased is as breaking it in life” functions not only as a prohibition of mutilation and insult, but as the benchmark for assessing the legitimacy of any medical action on a deceased body. Accordingly, any proposed reform of *qisās* methods—especially transplant-related proposals—must first demonstrate that it does not trespass the sanctuary of dignity; or, if a real, irreplaceable necessity exists, that it operates exactly to the measure of that necessity, with mechanisms that safeguard dignity, separate institutional roles, ensure bioethical oversight, and prohibit any pecuniary or performative motives, so that the goal of preserving life is realized without compromising the integrity of the corpse or reducing the face of justice to medical permissiveness. (Al-Hurr al-Amili, 1993; Al-Najafi, 1984)

In the dignity-centered logic of the Sharī‘ah—which, on one side, rests on the innate honor of humankind, and on the other, enforces the boundary “the sanctity of the believer after death is as his sanctity in life,” making the limits on bodily interference equally stringent in life and in death—organ donation, whether in penal policy or medical practice, acquires religious and ethical legitimacy only when it revolves around the concrete necessity of preserving life; proceeds with valid consent; is embedded in an institutional design that prevents coercion and conflicts of interest; minimizes affront and excludes any form of mutilation; and allows public accountability. Any penal innovation altering *qisās* procedures must install this dignity-centered core within its very architecture, so that the justice due to the victim and the rescue of a life in peril are integrated not antagonistically but synergistically—preserving deterrence and proportionality while avoiding unprincipled permissiveness in bodily interference or instrumentalizing the condemned for symbolic or utilitarian ends. (Al-Hurr al-Amili, 1993; Al-Tabataba‘i, 1996)

3.1. *The Legitimacy of Organ Donation from the Perspective of Penal Fiqh and the Maqāṣid of the Sharī‘ah*

In Imāmī penal fiqh, the legitimacy of removing an organ from a deceased person—or from one sentenced to deprivation of life—only becomes meaningful when interpreted within the ensemble of juristic rules on necessity and the objectives of the Sharī‘ah. The overarching maxims “necessities permit the prohibited” and “what is permitted for necessity is limited to its measure” provide the *ijtihādī* foundations for a narrow, conditional departure from primary prohibitions. On this basis, any permission to interfere with the human body—whether in life or post-mortem—is conceivable only if a real, scrutinized necessity is established and no Sharī‘ah-compliant or medically less intrusive alternative exists to save a protected life. Here, “necessity” is not mere social utility or ordinary hardship; it must reach the level at which inaction would result in the loss of a protected life, and the exception to inviolability is confined precisely to that necessity—no more. Thus, the rule of necessity is not a general license but a narrowly tailored exception derived from the *maqāṣid* of preserving life and honoring the human being; once the necessity ceases, the primary prohibition revives. This *maqāṣid*-based interpretation guarantees that, even in liminal settings such as carrying out *qisās* or organ transplantation, the baseline inviolability of the body remains intact and any corporeal intervention is bounded by, and aimed at, saving another’s life—neither less nor more. (Al-Suyuti, 1983; Ibn Nujaym, 1998)

From the vantage point of contemporary Iranian legal and medical policy, the legitimacy of organ donation has been reframed around human dignity and the right to health. In particular, medical-law scholarship—criticizing unnecessary restrictions—has proposed that an individual’s ante-mortem consent (through formal will or duly registered donor declarations) should take precedence over the heirs’ post-mortem consent, since dignity requires that a person’s informed will be respected even after death and that heirs function as verifiers and overseers rather than ultimate decision-makers. Grounded in the four principles of bioethics (autonomy, beneficence, justice, and non-maleficence), this approach seeks to interpret law so as to avoid unjustified expansions of prohibitions or laxity toward Sharī‘ah limits, and to recalibrate executive bylaws around a balance between honoring the deceased and reviving the life of those in need. Dignity and the right to life thereby emerge as two balanced vertices of a single *maqāṣid*-based system—neither to be diminished at the expense of the other. (Sadeghi et al., 2021)

Iran's Islamic Penal Code (2013), in Articles 436–440, sketches a clear dignity-centered approach to the execution of *qisās*. These provisions emphasize conducting *qisās* by conventional methods with the least possible suffering, prohibiting mutilation, complying with sanitary standards, ensuring instrument safety, and preventing disease transmission—thereby linking the philosophy of *qisās* with bodily inviolability. By insisting on these principles, the legislator draws ethical-legal red lines within which any debate about transplantation or procedural reform of *qisās* must occur: the inviolability of the human body does not lapse at the threshold of punishment, and the justice system is obliged to realize justice within the bounds of dignity. In this sense, these articles constitute the legal pillars of bodily dignity in Iran's penal order, to which any transplant-related policy must conform.

Article 47 of the 2019 “Bylaw on the Execution of Ḥudūd, Capital Punishments, Amputation, *Qisās* of Life and Limbs, and Wounding...” opened a new chapter at the intersection of criminal justice, bodily dignity, and the preservation of life by contemplating voluntary organ donation by death-row inmates before or after execution, contingent on a joint judicial–medical protocol. Yet, this innovation prompted extensive ethical and legal critique. From *fiqhi* and medical standpoints, critics warned that the carceral power structure and the psychological condition of the condemned may exert coercive pressure on consent, undermining the possibility of a free, unpressured decision. Hence, any consent in such contexts must be not only written and explicit but also supervised by independent bodies in medical ethics and forensic psychology, and strictly insulated from any promise of mitigation or penal advantage. The thrust of these critiques is that—even if organ donation aims to save lives—when it arises within the penal system, it must be accompanied by the most robust guarantees of dignity and transparency to avert instrumentalization of the condemned and erosion of the philosophy of penal justice.

3.2. *Analyzing the Relationship between the Right of Qisās and Authorization for Organ Donation in Contemporary Fiqh and Law*

In explicating the relationship between the heirs' right of *qisās* and authorization for organ donation, Iranian positive law begins from the 1999 single-article statute on organ transplantation, which accepts either the patient's will or the guardian's consent as sufficient to legitimate organ removal—thereby structuring valid consent around personal autonomy and the life-preserving necessity of transplantation. By contrast, certain stricter requirements introduced in the 2002 Executive Bylaw—notably, demanding consent from all adult heirs in practice—can conflict with the statutory text (which calls for a narrow interpretation of additional constraints on the right to donate) and with the philosophy of preserving life, since expanding the circle of consent beyond necessity risks practically disabling life-saving options. Therefore, within the hierarchy of norms and dignity-centered principles, the bylaw should be interpreted or recalibrated so as to preserve, alongside the heirs' verificatory role and ethical–medical oversight, the priority of the decedent's ante-mortem consent and the sufficiency of one of the two statutory pathways—thus coherently reconciling the heirs' private right with the public interest in life. (Sadeghi, 2003; Sadeghi et al., 2021)

When the same legislative logic is coupled with procedures for expert determination of brain death, separation of roles between the treating authority and the certifying authority, and strict requirements of documentation and oversight, a framework emerges that, at the level of penal philosophy, clearly indicates an active quest for balance between bodily dignity and the preservation of life. Valid consent—whether by will or by the guardian within the statutory framework—together with standardized, auditable medical determinations, not only prevents permissiveness toward post-mortem interference but also opens an ethical–legal path for life-saving donation even in the shadow of life-depriving penalties—without diminishing human stature or compromising the legitimate deterrence of penal justice. Thus, the relation between the right of *qisās* and permission to donate is not a zero-sum opposition; it is understood as a matter of regulating methods and institutionally structuring consent and oversight—enabling a dignity-based accommodation between the justice owed to the victim and the vital need of the recipient.

At the level of public law and citizens' rights, express commitments to preserving human dignity in judicial and administrative processes—and to informed consent, and the prohibition of any humiliation or discrimination—operate as the “soft requirements” of dignity. They guide interpretation and practice in any medico-penal procedure involving the removal and transplantation of organs from the condemned. Protocol design must therefore ensure the donor's decisional independence, adequate awareness of consequences, access to bioethics and forensic-psychology counseling, and institutional separation

between the authority executing the sentence and the authority obtaining medical consent. Such an architecture, beyond upholding equality and the ban on discrimination against convicts, honors proportionality, transparency, and administrative accountability, preventing consent from being compromised by structural pressure or hopes of penal privilege, and elevating it instead to the gold standard of free and informed authorization—so that the relationship between *qisās* and donation remains grounded in dignity and justice. (Safaei, 2011)

4. Foundations and Juristic Proofs for the Possibility of Changing the Method of Executing *Qisās al-Nafs*

In Imāmī jurisprudence, the principle of intrinsic human dignity—derived from the Qur’anic affirmation “We have certainly honored the children of Adam” and expounded in *al-Mizān* as an enduring attribute of humankind—operates not only as a moral axiom but as a juristic basis for regulating any penal or medical ruling concerning the human body. When this principle is coupled with the rule “the sanctity of the believer after death is as his sanctity in life,” a clear conclusion follows: the human body, in all conditions—both in life and after death—is protected from non-necessary and non-Sharī’ah-compliant interventions; any executive or therapeutic act is legitimate only within verified necessities and to the extent strictly required, while safeguarding bodily inviolability. Accordingly, any proposal to alter the method of executing *qisās* or to integrate it with medical procedures such as organ donation must remain consistent with this dignity-centered core. Otherwise, it would not only conflict with scriptural and transmitted proofs but would also undermine the philosophy of criminal justice in Islam, which is grounded in human dignity and the repudiation of humiliation or blind revenge. This dignity-oriented reading places contemporary ijtihād before the question of how to balance the necessity of preserving life with the inviolability of the body—without displacing the Sharī’ah ruling of *qisās* from its path of legitimacy. (Al-Hurr al-Amili, 1993; Al-Tabataba’i, 1996)

Building on these foundations, Imāmī fiqh—appealing to the explicit ban on mutilation and the maxim *al-iḥsān fī al-qatl* (benevolence in execution)—affirms that no method of punishment may result in humiliation, unnecessary suffering, or mutilation, even if the ultimate aim is saving another’s life or reforming penal practice. For, as later jurists (including al-Khoei) emphasize, beneficence in killing is a legal obligation, not a mere ethical recommendation. Hence, vindication through *qisās*, while realizing penal justice, must proceed with good conduct and without cruelty; any method that exceeds necessity or carries the appearance of revenge or gratuitous harm contradicts this principle. From the standpoint of ijtihād, only in exceptional cases—and on the firm ground of proven necessities of life preservation—may one pass beyond these prohibitions; otherwise, any modification of *qisās* methods, even for donation or therapeutic use, must submit to stringent fiqhī constraints so that the convict’s dignity, the integrity of justice, and the maqāṣidī aim of preserving life remain in equilibrium. (Al-Hurr al-Amili, 1993; Al-Khoei, 1989)

4.1. Examining the Legal–Sharī’ah Proofs on the Quality of *Qisās* and the Scope for Methodological Change

Sharī’ah and statutory proofs concerning the manner of executing *qisās* show agreement—both in the sacred law and in Iranian legislation—on the criteria of beneficence in killing and minimization of the convict’s suffering; from this, a fiqhī–legal capacity for re-examining methods of execution emerges. Article 436 of Iran’s 2013 Islamic Penal Code explicitly provides that *qisās al-naḥs* must be carried out only by customary methods that inflict the least harm on the murderer, and that any mutilation—before or after *qisās*—is forbidden. This is, in legal form, the same fiqhī maxim *al-iḥsān fī al-qatl* found in widely transmitted reports, whose purpose is to realize justice while preserving human dignity. The implicature of this article is that the executing authority is not only obligated but also authorized to choose, among feasible options, the method that imposes the least physical and psychological suffering and avoids mutilation or displays of violence. Thus, the Iranian legal order has normative room to adjust methods of execution—so long as the Sharī’ah essence of *qisās* (lawful taking of the offender’s life) is preserved and no innovation conflicts with fiqhī foundations and the overarching principles of Islamic justice. (Emami, 2017)

The 2019 “Bylaw on the Execution of Hudūd, Capital Punishments, Amputation, *Qisās* of Life and Limbs, and Wounding, Diyāt, Flogging, ...”—by carefully structuring the operational stages from summoning the heirs to confirming the convict’s death, defining the role of the forensic physician, controlling instruments, and specifying the site of execution—functions as an administrative, standardized mechanism for achieving the “least harm” criterion. By assigning precise duties to judicial

officers, law enforcement, and forensic physicians, the bylaw institutionally enables assessment and iterative improvement of execution processes. Dignity-centered criteria such as instrument hygiene, sanitary conditions, and specialist oversight are concretely embedded in operational design. This framework, in turn, creates the legal groundwork for future revisions—especially where new technologies or practices can reduce pain and harm or allow a more humane implementation. In this way, the 2019 bylaw becomes a bridge between fiqhi standards and modern administrative tools, strengthening scope for method change within Sharī‘ah constants. (Seyyed Hosseini & Attakouei, 2021)

Iranian scholarship in criminal law and medical law moves along the same lines. Academic analyses in the philosophy of punishment and bioethics argue that life-depriving sanctions must be re-articulated in light of human dignity, the ban on mutilation, and the duty to reduce suffering. Comparative studies of execution methods show that changes in method—provided they do not impair justice or deterrence and remain consistent with fiqhi bases—are defensible in human-rights terms and aligned with the maqāṣid of the Sharī‘ah, since the Lawgiver’s intent in *qisās* is life-affirming justice, not the amplification of pain or the staging of violence. On this foundation, Articles 436–438 and bioethical principles offer sufficient fiqhi–legal bases to open discussion on methods that are less harmful, more humane, and more dignity-centered—so that the philosophy of *qisās* remains in harmony with the spirit of Islamic justice and compassion. (Mir-Khalili, 2017)

Articles 436–440 collectively construct the dignity-centered legal pillars of *qisās* implementation: they prohibit mutilation, require safe and uncontaminated instruments, and account for liabilities arising from sanitary negligence or excess beyond prescribed limits. As earlier noted, these provisions both delineate the boundaries of execution methods and forge a rational link between classical fiqh and modern law, preparing the ground for discussions on changing execution methods within a framework of dignity and health. Any new procedural initiative—including concepts such as organ donation at the margins of *qisās*—must be cabined by these articles and their animating philosophy, so that bodily inviolability and human worth are preserved even at the threshold of punishment and criminal justice does not bypass ethics. (Emami, 2017)

Article 47 of the 2019 bylaw—by contemplating the possibility of voluntary organ donation before or after capital execution and conditioning it on a joint judicial–medical protocol—opened a new chapter at the intersection of bodily dignity, the necessity of saving life, and the limits of *qisās*. While innovative from the perspective of criminal policy and bioethics, it has also drawn serious criticism: medical professionals warn that asymmetric power and the psychological state of the condemned may coerce or color consent, making genuine voluntariness difficult to assure; fiqhi critiques add that although “necessities permit the prohibited” can, in rare cases, justify exceptions, one must not, under the banner of necessity, compromise the condemned’s bodily dignity in the course of punishment. The upshot is that any evolution in *qisās* methods is legitimate and defensible only if anchored in dignity, free and informed consent, layered oversight, and fidelity to the maqāṣid of the Sharī‘ah—otherwise justice strays from its path. (Sadeghi, 2003; Sadeghi et al., 2021)

4.2. *The Impact of Time and Place on Ijtihād and Juristic Reassessment of Qisās Implementation*

In the dynamic ijtihād of the Imāmī school, the factors of time and place shape not only subject-matter understanding but also the reassessment of implementation methods. The maqāṣid of the Sharī‘ah and the general principles of justice encounter changing instantiations across eras; aligning them with scientific, social, and institutional realities is the charge of contemporary ijtihād. Iran’s recent legislation—such as the 1999 Law on Organ Transplantation from Deceased or Brain-Dead Patients and its 2002 Executive Bylaw—shows that Iranian fiqh and law, in dialogue with medical advances and bioethics, have struck a balance between bodily inviolability and the necessity of saving life. Emphasizing valid consent, expert determination of brain death, and the prohibition of financial gain, this legislation exemplifies time-sensitive, maqāṣid-conscious lawmaking responsive to scientific progress and human need—suggesting that, within criminal justice too, one may, while preserving fixed principles, benefit from contemporary rational and ethical achievements. Especially where *qisās* intersects with organ donation, this legislative experience can serve as a fiqhi model for integrating bodily dignity with life preservation: the maqāṣid of the Sharī‘ah are realized not in conflict but in synergy with humane justice—provided ijtihād attends to temporal and social context. (Rezaei, 2016; Sadeghi, 2003)

The 2004 “Law on Respect for Legitimate Freedoms and Safeguarding Citizens’ Rights” and the 2016 “Charter of Citizens’ Rights” are salient manifestations of time’s imprint on legal ijtihād. By expressly affirming human dignity throughout judicial and administrative processes, they trace new boundaries for the ethics of adjudication and treatment of convicts. Under these

instruments, any medico-penal practice involving the human body—including removal and transplantation of organs around the execution of punishment—must guarantee informed consent, avoid humiliation and discrimination, and exercise heightened care for the vulnerable status of convicts. This legislative–discursive evolution concretely embodies the temporal factor that moves fiqh and law from static form to dialogic, dynamic, dignity-centered practice; the human, scientific, and ethical exigencies of the present age require that implementation be reinterpreted along axes of respect for dignity and preservation of life. In other words, time and place here are not external to the ruling but internal to its understanding and application, granting fiqh vitality in a changing world. (Safaei, 2011)

At the international fiqh level, the resolutions of the International Islamic Fiqh Academy (Jeddah) attest to the role of time and place in contemporary ijtihād. Resolution no. 26 (1988) accepted organ transplantation from living and deceased donors—subject to predominance of benefit, valid consent, and the ban on commerce—signaling a shift toward maqāṣid- and maṣlaḥah-oriented reasoning in the face of modern medical advances. Conversely, resolution no. 58 (1990) held that reattaching a member severed by *ḥadd* or *qisās* is impermissible insofar as it undermines deterrence, except in narrowly defined cases of certain necessity for saving life. Read together, these positions model time-sensitive, maqāṣid-based ijtihād in the Muslim world, seeking to coordinate three core values—bodily dignity, preservation of life, and penal justice—not in opposition but in interaction. For Imāmī fiqh, which counts time and place among the considerations of wilāyah-based ijtihād, this opens a vista for revisiting *qisās* methods in light of current scientific and ethical realities without harming Sharīʿah constants—since Islamic justice, in its essence, is conjoined with rationality and humaneness, and any procedural reform grounded in these principles constitutes fidelity to the spirit of the Sharīʿah. (Abbasi, 2017; Sadeghi, 2003)

5. A New Horizon for *Qisās al-Nafs* with an Organ-Donation Approach in Contemporary Fiqh and Law

In the new horizon opened by contemporary fiqh and law on *qisās al-nafs*, fidelity to the tradition “no retribution except by the sword” is no longer a literal attachment to a specific instrument, but the preservation of its spirit—beneficence in killing and the swiftness of severance—so that the condemned suffers the least possible pain at the moment life is taken and the sanction is elevated from the realm of vengeance to dignity-centered justice. Juristic analysis of this formula in classical texts such as *al-Rawḍa al-Bahiyya* by al-Shahīd al-Thānī shows that the criterion is not the instrument per se but adherence to humane and Sharīʿah standards whose aim is an equivalent, pure taking of life without torture or mutilation. Hence, if today’s scientific advances make it possible to execute punishment in ways that, while preserving the legality of *qisās*, reduce suffering—for example, through full anesthesia, pain control, or standardized medical protocols—such developments are, in truth, aligned with the Sharīʿah wisdom of beneficence and the preservation of human dignity, not in conflict with it. This perspective does not change the divine ruling’s essence; it re-reads its purpose in the light of the maqāṣid of the Sharīʿah, for Imāmī fiqh is, at its core, purposive and goal-oriented: tools serve the spirit of justice, not vice versa. Accordingly, any technical innovation in *qisās* methods that more fully actualizes the rationales of rapid termination and the ban on mutilation is justifiable within fiqh—provided it remains faithful to the principles of beneficence, dignity, and Sharīʿah oversight. (Al-Shahid al-Thani, 1992; Muslim ibn al-Hajjaj)

The verse “whoever saves a life, it is as if he saved all mankind” (al-Māʾidah 5:32), as interpreted in *al-Mizān*, pertains to any deliverance from destruction and restoration of life; at the level of the Sharīʿah’s general objectives, it thus functions as a broad rule for preferring the preservation of life over many lesser interests. On this basis, if a lawful method of *qisās* is designed such that, after the condemned’s death is established in Sharīʿah, the lives of others can be saved through organ transplantation, one may say that reconciling the heirs’ private right with the public interest in preserving life becomes possible by prioritizing the higher objectives of the Sharīʿah in cases of genuine conflict. In such a scenario, *qisās* is not weakened in its deterrent and justice-realizing functions; rather, by adding a life-affirming dimension, it gives concrete embodiment to the Qur’anic promise that “in retribution there is life.” This maqāṣid-based approach responds to temporal change by calling fiqh from formal stasis to rational dynamism, permitting it—while keeping fixed principles intact—to harness medical knowledge to re-create justice in the service of life and dignity; for in Islam’s logic, justice without life and compassion is as incomplete as life without justice. (Al-Tabatabaʾi, 1996)

5.1. Juristic and Legal Feasibility of Substituting Organ Donation within the *Qisās* Execution Process

Within Imāmī penal fiqh and Iran’s legal order, the proposal to substitute organ donation in the *qisās al-naḥs* process can gain juristic and statutory legitimacy only if it avoids the Sharī‘ah prohibition of mutilation and, instead of staging violence, is grounded in human dignity and the life-preserving interest. Authoritative fiqhi texts—including the “chapters on the prohibition of mutilation” in *Sunan Abī Dāwūd* and the analyses in *Jawāhir al-Kalām*—state plainly that mutilating a human being, whether before or after killing, is forbidden, and that its scope includes any interference that alters the face or bodily form. Yet within Imāmī fiqh, one can speak of a doctrinal “relaxation” of the prohibition’s reach: if the taking of life has been accomplished according to Sharī‘ah with minimal suffering, and, thereafter, with valid consent from the condemned or the guardian of the deceased, organs are removed to save others’ lives, such removal does not fall under mutilation; its aim is neither exhibition nor intimidation but the rescue of life. On this view, post-mortem organ donation—after legal death—is not a trespass against the corpse but a continuation of the Qur’anic philosophy that “in *qisās* there is life,” seeking communal life through *qisās*. (Abu Dawud, 2009; Al-Najafi, 1984)

From the vantage of governance-based fiqh (*fiqh al-wilāyah*), *qisās* may be carried out only upon proof before, and under the supervision of, the lawful authority; thus, all regulation of how it is executed lies within the ruler’s delegated powers. Many jurists—including Imam Khomeini in *Tahrīr al-Wasīlah* and al-Fāḍil al-Lankarānī in *Tafsīl al-Sharī‘ah*—state explicitly that, without the ruler’s permission, *qisās* is impermissible even with the heirs’ consent, because the ruler is responsible for order and for preventing abuse and chaos. This wilāyah position means that configuring the method—choice of instruments, presence of a forensic physician, or even limited medical interventions—falls within the authority of the ruler or his judiciary delegate, so long as it aligns with the maqāṣid and the bounds of beneficence. Hence, innovations such as general anesthesia before execution or arrangements for voluntary organ donation, when carried out under the religious ruler’s authorization and supervision and within the limits of necessity, fall within fiqhi legitimacy. This is the extension of the same stewardship logic Imāmī fiqh recognizes for calibrating the practical instantiations of penal justice. (Al-Fazel al-Lankarani, 2000; Al-Khomeini)

Article 436 of Iran’s 2013 Islamic Penal Code—by stipulating that *qisās al-naḥs* is permitted only by customary methods causing the least harm to the killer, and by forbidding mutilation after execution—effectively entrusts the executing authority with the normative discretion to select less harmful, more humane methods. In the light of this article, performing the sentence with medical measures such as complete anesthesia or pain-free death protocols not only avoids conflict with the statutory text but also harmonizes with the fiqhi spirit of beneficence in killing and the prohibition of excess. Subsequent provisions (Arts. 437–440)—requiring uncontaminated instruments, allowing postponement where there is risk of disease transmission, and forbidding execution on a pregnant woman—elevate Iranian criminal policy from a purely penal system to an ethical–fiqhi one wherein dignity is a co-criterion of justice. (Emami, 2017)

The 2019 Bylaw on the Execution of *Hudūd* and *Qisās*, in Article 47, goes further by contemplating voluntary organ donation by the condemned before or after execution, subject to a joint judicial–medical protocol. With layered legal and medical safeguards—such as verifying organ health, confirming absence of medical contraindication, and requiring a joint instruction from the judiciary, Legal Medicine Organization, and Ministry of Health—this innovation aims to elevate the process from the technical to the human plane. Acknowledging the apparent tension between punishment and life-preservation, the Iranian legislator has endeavored, through a carefully engineered legal platform, to unite them under the canopy of dignity without letting one eclipse the other. (Seyyed Hosseini & Attakouei, 2021)

Foundational Iranian transplant legislation—the 1999 statute and its 2002 executive bylaw—had already prepared the ground by defining brain death medically and legally, structuring the consent regime (bequest or guardian authorization), specifying the necessity threshold, and banning organ commerce. When these rules are read together with Articles 436–440 of the Penal Code, a sufficient legal–ethical basis emerges for discussing a legitimate, dignity-centered co-presence of *qisās* and organ donation. In comparative terms, this is a rational integration of two normative systems—criminal law and health law—where executing justice is made compatible with preserving life. (Rezaei, 2016; Sadeghi, 2003)

Recent academic literature likewise shows that Article 436, by itself, furnishes ijtihādī latitude for adopting new methods: many fiqhi and legal researchers argue that, under the rules of beneficence, the ban on mutilation, and the principle against

excess, more humane and medically informed techniques can be incorporated within lawful *qisās*. Some studies defend a model of full anesthesia and post-mortem organ recovery as compatible with *qisās*; others emphasize ethical, psychological, and social dimensions. Taken together, scholarly and fiqhi opinion converges on this point: any method change that aligns with dignity, wilāyah oversight, and the necessity of saving life is not a breach of the divine ruling but a wise interpretation of it. Thus, substituting organ donation within the *qisās* process—if designed within the maqāṣid of the Sharī‘ah and statutory constraints—can instantiate life-affirming justice in contemporary Islamic fiqh and law. (Emami, 2017)

5.2. A Comparative Study of Humane Methods of Capital Punishment in Legal Systems

In comparative perspective, what Imāmī fiqh shares with modern legal systems regarding humane execution methods is the preservation of the condemned’s dignity and the minimization of suffering at the moment life is taken. Imāmī fiqh, by forbidding poisoned instruments in *qisās* and banning any means that carries a risk of transmission or superfluous harm, draws a moral-fiqhi red line and treats oversight of instruments and methods as part of the ruler’s Sharī‘ah duty. As Imam Khomeini states in *Tahrīr al-Wasīlah*, and as al-Fāḍil al-Lankarānī explains in *Tafsīl al-Sharī‘ah*, using dull or poisoned tools entails liability and prohibition, for the philosophy is to safeguard beneficence in killing and to negate unnecessary torment. On this basis, if deep anesthesia allows a quick, pain-free death consistent with medical standards—and, after legal death, organs are recovered to rescue others—such a method is not only compatible with fiqhi texts but coheres with the spirit of beneficence and the principle of human dignity. Thus, the criterion of legitimacy for novel methods is not the type of instrument but their alignment with the Sharī‘ah’s aims of avoiding mutilation and preventing excess harm. From here, one can coherently speak of lawful *qisās* with organ donation after legal death. (Al-Fazel al-Lankarani, 2000; Al-Khomeini)

In advanced legal systems, including England and France, historically adopted methods of execution (prior to abolition) were designed to minimize physical and psychological suffering; in Iran, this discussion is developing along a dignity-centered fiqhi trajectory. Post-mortem organ donation—if undertaken within the framework of valid consent, instrument safety, and the necessity of saving life—can thus exemplify the synthesis of two foundational values: criminal justice and bioethics. Research along these lines clarifies ethical and fiqhi boundaries and provides the conceptual groundwork for convergence between criminal law and health law, aligning the philosophy of *qisās* with the scientific realities of the modern age. (Abbasi, 2017)

On scriptural–fiqhi grounds, the maxim *al-iḥsān fī al-qatlah*, reported in *Mizān al-Ḥikmah* and *Bihār al-Anwār*, states unambiguously that goodness in killing is obligatory, not merely recommended; its force is not confined to any era. This maxim is the moral pillar of Islamic penal fiqh: any new method that more perfectly realizes beneficence is legitimate, provided it does not cross the bounds of mutilation or excess. In Imāmī exegesis of “do not be excessive in killing,” major commentators such as ‘Allāmah Ṭabāṭabā‘ī explain that “excess” means any departure from equivalence or unjustified intensification—whether in instrument or in manner. On this basis, any method that produces the least suffering and avoids needless prolongation falls within Sharī‘ah legitimacy. Innovation in method, therefore, is not a change in the ruling of *qisās* but a strengthening of its philosophy, for its aim is deterrence and justice, not vengeance or torture. (Al-Majlisi, 1983; Al-Rayshahri, 2000; Al-Tabataba‘i, 1996)

Finally, the rule “the sanctity of the believer after death is as his sanctity in life,” together with narrations on feeding captives and showing forbearance toward the condemned, indicate that human dignity must be upheld even in life’s final moments. For the Imāmī jurist, these texts render *qisās* not merely a judicial act but an ethical test for society: can it unite justice with compassion? Accordingly, a change in method that prevents harm, preserves bodily honor, and realizes *iḥsān fī al-qatlah* is not only permissible but desirable. Compared with modern systems that accept international standards against torture and for dignity in execution, Imāmī fiqh—rooted in Qur’anic and hadith foundations—has the capacity to converge with global values of humane justice. This outlook lifts fiqh from sheer devotion to morally informed rationality and enables robust dialogue between the Sharī‘ah and global legal systems on humane modes of punishment. (Al-Hurr al-Amili, 1993)

6. Conclusion

1. Based on the foundations of Imāmī jurisprudence and the higher objectives of the Sharī‘ah, *qisās al-naḥs* was instituted not to annihilate the offender, but to restore moral and social equilibrium and to preserve collective life. Accordingly,

whenever this aim can be realized by substituting organ donation for the physical execution of the sentence, such substitution not only does not conflict with the philosophy of *qisās*; it in fact fulfills it—because in this model, life springs from death and justice manifests not as vengeance, but as rescue and beneficence.

2. The distinction between the “essence of the ruling” and the “mode of execution” in Imāmī fiqh creates an ijtihādī capacity whereby *qisās*, as a divinely fixed right of private claim, remains intact, while its mode of enforcement may be redesigned in accordance with contemporary scientific, ethical, and purposive standards. Thus, modifying the method of vindication—within fiqhī rules—does not alter the essence of the ruling; rather, it reflects the dynamism of ijtihād and the rationality of fiqh in responding to the demands of the time.
3. The study’s findings show that foundational fiqhī maxims—such as “beneficence in killing,” “the sanctity of the believer after death as in life,” and “necessity permits the prohibited”—provide a legitimate theoretical space for this transformation. According to these principles, when the necessity of preserving life and rescuing others is established, and bodily intervention remains within the limits of necessity and with due regard for dignity, it is possible to depart from the initial prohibition on interference with the body—provided the intervention entails no pecuniary exploitation, humiliation, or performative display.
4. Ethically and jurisprudentially, substituting organ donation for *qisās* can elevate the concept of criminal justice from a negative, punishment-centered posture to a positive, life-giving one. In this model, justice is realized not by eliminating the offender but by turning the offender’s body into a source of saving the lives of those in need—lifting justice from mere reaction to crime to active participation in the revival of social life.
5. Adoption of this model requires precise institutional architecture: verification of legal death according to reliable scientific criteria; obtaining free and informed consent from the condemned without any pressure or judicial inducement; absolute separation between the judicial authority that issues and enforces the sentence and the medical authority that procures organs; and the establishment of independent bioethics committees for oversight, verification, and public accountability. Only within such a framework can instrumentalization of the body or organ commerce be prevented and the moral legitimacy of the model be secured.
6. From the perspective of Islamic criminal policy, replacing *qisās al-naḥs* with organ donation can transform justice from a rigid, purely deterrent form into a restorative, constructive, and dignity-centered one. In this approach, the heirs’ consent and their participation in giving life to others—rather than exacting blood—can enhance the sense of justice and psychological relief, rebuild social trust, and reduce the cycle of violence.
7. In positive law, the combination of Articles 436–440 of the 2013 Islamic Penal Code with the 1999 law on organ transplantation from deceased or brain-dead patients prepares the legislative groundwork for this transformation; in both domains, the legislator recognizes bodily dignity, specialized oversight, and the primacy of preserving life. With adjustments to certain bylaws and explicit coordination between the two statutes, a legal basis for safe and legitimate implementation can be provided.
8. At the level of legal philosophy and ethics, this model reveals the humane and rational visage of the Sharī‘ah, demonstrating that Islam—when engaging scientific advances and contemporary human needs—can draw upon its ijtihādī capacity to redefine justice. Such a purposive reinterpretation both safeguards the divine stature of the human being and revives the merciful spirit of the Sharī‘ah within the domain of punishment.
9. The jurisprudential analysis indicates that the principle of the ruler’s authority in regulating the manner of executing *ḥudūd* and *qisās* can serve as the legitimate basis for a permissive authorization of this change. That is, as the guarantor of order and the public interest, the lawful authority may recalibrate the method of enforcement—consistent with the Sharī‘ah’s objectives and the principles of beneficence—to harmonize criminal justice with life-giving justice.
10. The final conclusion is that fully substituting organ donation for *qisās al-naḥs* is not an abandonment of the divine ruling, but a more concrete realization of the Qur’ānic philosophy of life in *qisās*. In this model, the offender’s death becomes the point of birth for new life; justice ascends from punishment to mercy and beneficence; and the Islamic penal system, instead of producing violence, produces life and spirituality. Such a model could mark the beginning of a new jurisprudential field—“fiqh of life-affirming *qisās*”—in which rationality, dignity, and mercy comprise the three pillars of justice.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

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