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Revisiting the Philosophy of Qisas al-Nafs (Retributive Execution) from the Perspective of the Objectives of Shari'ah and Human Dignity, with an Emphasis on the Possibility of Organ Donation as a Substitute for Retribution

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ABSTRACT

This study, by reexamining the philosophy of qisas al-nafs in Imami jurisprudence and Iranian criminal law, demonstrates that qisas, contrary to revengeful and violent interpretations, is a rights-based institution limited by the principle of equivalence. Its objective is to restore the disturbed moral and social balance through a proportionate response to intentional homicide, to restrain the cycle of blood vengeance, and to consolidate collective security, rather than to merely eliminate the offender physically. Within this framework, qisas functions as a right that can be claimed, forgiven, or converted by the victim's next of kin, and it is carried out through judicial procedures under the supervision of a judge and within the bounds of human dignity—including prohibitions against mutilation, excessive harm, and the obligation to act benevolently in execution—so that both the deterrent principle and the dignity of even the offender are preserved. The study further shows that this intrinsic logic of qisas, in light of the maqasid al-shari'ah (objectives of Islamic law) and the rule of preserving life (hifz al-nafs) and maintaining public order, tends toward limiting the scope of harsh punishments and preferring restorative and life-affirming alternatives. This interpretation aligns with the Qur'anic principle "and for you in retribution there is life" (wa lakum fi al-qisasi hayatun), such that "life" is understood not only as the deterrence of future killings but also as the creation of actual possibilities for life for others. The third and fourth discussions explore the feasibility of an alternative model in which the victim's heirs, instead of demanding the traditional implementation of qisas al-nafs, may—by virtue of their rights to reconciliation and waiver, and under conditions of the convict's informed and non-coerced consent, with judicial and medical oversight—choose to convert their right into a mechanism for organ donation, thereby saving the lives of patients on the verge of death. This is contingent upon safeguarding the dignity of the condemned person throughout and after the process, prohibiting any form of coercion or humiliation, ensuring the separation of the jurisdictions of the execution judge and the medical ethics committee, and institutionally guaranteeing the jurisprudential legitimacy of exercising or waiving the right. The conclusion drawn is that qisas can transcend the mere logic of terminating the offender's life and evolve into a dignity-centered mechanism of justice that is simultaneously deterrent and life-giving for society as a whole.

Keywords: *Qisas al-nafs, human dignity, maqasid al-shari'ah, informed consent, organ donation.*

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Introduction

The study first seeks to present an accurate and unembellished depiction of the institution of qisas (retributive justice) in Imami jurisprudence and contemporary criminal law, demonstrating that qisas is not designed as an act of personal revenge or repetitive violence, but rather as a limited, supervised, and waivable right belonging to the heirs of the victim. This right is constrained by the logic of equivalence, the prohibitions of transgression and mutilation, and proceeds exclusively through a judge and formal judicial procedures. It may even be halted through pardon, monetary reconciliation, or conversion into diyah (blood money). Within this framework, qisas is not an unregulated, blind reaction to intentional homicide but a legal instrument to restore disrupted moral and social balance. This precise understanding of the nature of qisas provides the conceptual groundwork for further discussion and for proposing potential alternatives.

The Conceptual and Ontological Foundations of Qisas in the Islamic Criminal Justice System

Explaining the Foundational Concepts of Qisas, Life, and Justice in the Qur'an and the Sunnah

In the logic of the Qur'an and the Sunnah, *qisas* is a mechanism for executing a punishment equivalent to the crime and for restoring the disrupted balance of justice. This means that the penal response must be proportionate to the harm done to the right to life or bodily integrity and must not exceed the limits of necessity. Classical Imami sources under the "Book of *Qisas*" explicitly state that the standard is equivalence (*mithl al-janāyah*), not blind retaliation. When the Qur'anic verse "*al-nafs bil-nafs*" (a life for a life) establishes the rule of proportionality in cases of intentional homicide and "*wa lakum fi al-qisasi hayatun*" (and for you in retribution there is life) expresses its social purpose—to curb cycles of blood vengeance and to prevent unrestrained violence—the institutionalization of *qisas* becomes a form of accountable and deterrent justice rather than an escalation of wrath (1, 2).

In this same framework, Imami jurisprudence defines *qisas* as the legitimate right of the victim's heirs to retribution, executed under the constraints of humane legal standards (3). The primary rule regarding intentional homicide is the obligation (*wujub*) of *qisas*, but this obligation is legislated as a right for the heirs of the victim and is activated only upon their demand. It ensures objective justice for the victim and survivors while also serving a collective deterrent function, since a proportionate and predictable response diminishes the rational incentive to commit intentional homicide (2).

Because *qisas* is a right, the state holds only the monopoly of coercive instruments and procedural regulation, not ownership of the right itself. Hence, the power to exercise or waive the right belongs exclusively to the aggrieved family, and justice is thus transferred from private revenge to a legally supervised judicial process (4).

Another foundational restriction in Imami jurisprudence concerns the humane limits of implementation. It is explicitly stipulated that *qisas al-nafs* must be carried out "only by the sword" (*la yuqtaṣ illa bil-sayf*), as swiftly and painlessly as possible, and that any form of mutilation or torture is forbidden. This restriction constitutes a jurisprudential formulation of human dignity, demonstrating that even in the most severe penal response, the *shari'ah* does not permit justice to descend into humiliation or cruelty (2, 5).

The doctrine confines *qisas* to the limit of necessity, preventing any additional suffering beyond the measure of equivalence. The rule "*ḥurmat al-mu'min mayyitan ka ḥurmatihi ḥayyan*" ("the sanctity of a believer after death is like his sanctity in life") illustrates that the body of the condemned person remains inviolable even after execution and may not be treated as an object for degrading acts. From this principle derives the prohibition of any

posthumous violation—mutilation or public humiliation—outside the bounds of justice. This foundation aligns both with the Qur'anic doctrine of human dignity and with the social dimension of *qisas*: when justice remains within the bounds of necessity, it strengthens public trust in the fairness of punishment and facilitates reconciliation (2, 5).

The rights-based nature of *qisas* in Imami jurisprudence also includes the possibilities of waiver and transfer. The heirs of the victim may enforce their right, pardon the offender, settle for *diyah*, or appoint an agent to execute the retribution on their behalf. These flexibilities channel blood vengeance into a controllable legal process and open structural paths toward reconciliation. In penal policy, such flexibility is not a negation of justice but a means of achieving it, since justice in *qisas* is not confined to the physical elimination of the offender but extends to the restoration of the disrupted moral and social order (2, 3).

In Iranian law, this same logic is embedded within a precise legal structure. The legislator first defines the domain of intentional homicide to specify when *qisas* applies—wherever the perpetrator acts with intent or with knowledge of the lethality of the act. It then declares that the punishment for intentional homicide, upon demand by the victim's heirs and under the prescribed conditions, is *qisas*. To ensure proportional justice, the law provides financial adjustments in cases of gender or religious disparity so that the principle of equivalence is preserved. It also establishes provisions for multiple victims or divergent demands among heirs to enable pardon or *diyah*-based settlement, preventing the perpetuation of cycles of vengeance and promoting restorative mechanisms (6, 7).

Moreover, the Organ Transplantation Act recognizes the body of a deceased or brain-dead person, with testamentary or familial consent, as a legitimate source of sustaining life for others—embodying the *shari'ah* principle of *ḥifẓ al-nafs* (preservation of life) in a legal-medical framework (8, 9). This reflects that the legal system leaves open the possibility of preferring life-affirming solutions alongside the right to *qisas*.

Modern legal doctrine terms this pattern a "participatory criminal policy in *qisas al-nafs*," since it shifts the locus from "state-imposed execution" to a "right that the heirs may exercise or waive." Thus, the bereaved are elevated from passive sufferers to active participants in public justice, transforming private grief into a predictable, legally regulated claim (7, 10). Through this participation, deterrence (certainty of proportionate response) and restoration (possibility of pardon and reconciliation) coexist, and the relationship between *qisas* and life evolves from antagonism to rational coexistence. Consequently, sparing the offender's life through pardon and financial or ethical arrangements becomes itself an embodiment of justice. Scholarly analyses confirm that the inherent waivability of *qisas* is not a weakness of justice but a mechanism for rebuilding moral and social order after homicide (10).

The outcome of this interpretation is that the triad of *qisas–life–justice* in *shari'ah* and law forms a synergistic triangle: the rule of proportional retaliation guarantees responsive justice; the humane limits of execution safeguard dignity and public confidence; and the rights of the victim's heirs link justice to collective life through the possibility of reconciliation. Imami jurisprudence builds this triangle through the doctrines of equivalence, rights-based retribution, and the prohibition of mutilation and excessive harm (2). Iranian law institutionalizes this through the legal provisions governing scope, principle, balance, and restoration, and by endorsing organ donation as a life-affirming policy. This architecture transforms justice from a mechanism of death into a framework for restoring moral order and societal security—where pardon and reconciliation are not exceptions to justice but essential forms of fulfilling it (7).

Analyzing the Philosophy of Qisas Legislation in Imami Jurisprudence and Its Relationship with the Preservation of Social Order

The philosophy of *qisas* legislation in Imami jurisprudence is directly related to the protection of collective life and the maintenance of public order. The Qur'anic verses "*kutiba 'alaykum al-qisas fi al-qatla*" (retribution is prescribed for you in cases of killing) and "*wa lakum fi al-qisasi hayatun*" (and for you in retribution there is life) are understood by jurists not merely as permission for retaliation but as proclamations of a general principle of penal governance that transforms unregulated private vengeance into a lawful and proportionate response. This shift curbs tribal cycles of violence. Thus, at the outset of the "Book of *Qisas*," the subject is framed as "intentional and unjust killing of an innocent soul," underscoring that the ultimate aim is the preservation of innocent life and the restoration of the community's moral balance, not the gratification of the heirs' anger (11).

This foundation in Imami jurisprudence is supported by Qur'anic and *hadith*-based arguments regarding the sanctity of life and the necessity of regulated responses. Intentional killing is deemed a major, destructive sin, and the establishment of *qisas* as a legitimate right serves not merely as private compensation but as a message of order to society at large: innocent blood will never go unanswered, and the legal system is the sole legitimate authority for response (5).

The most precise layer of this philosophy is the limitation of *qisas* to "measured equivalence without excess." The Qur'anic command "*fa la yusrif fi al-qatl*" (do not exceed in killing) prevents *qisas* from turning into escalating vengeance and prohibits any response beyond necessity. For example, if several persons jointly commit murder, the heirs may not execute more than one, while the others are subject to *diyah* or reconciliation, thus averting endless cycles of bloodshed. This "discipline of *qisas*" transforms revenge into a judicial process governed by law and protects society from prolonged tribal conflicts (5).

The method of execution is also bound by the principle of human dignity: mutilation and torture are forbidden, and execution by the sword (*ijhāz bil-sayf*)—as the swiftest and least painful method—is prescribed so that criminal justice never degenerates into degrading conduct and the dignity-oriented message of the system remains intact (3).

Normatively, the rule "*la yubṭal dam imri'in muslimin*" (the blood of a Muslim shall not go unavenged) ensures that even when *qisas* cannot be enforced or the killer is unidentified, the blood of the victim is not neglected; compensation is paid from the public treasury (*bayt al-mal*). Thus, *qisas* is not a mere private right but the apex of a criminal policy designed to sustain social order and prevent the erosion of communal trust in normative protection (4).

Alongside this rights-based foundation, the supervisory mechanisms of the *hakim al-shar'* (religious authority) ensure that *qisas* proceeds only within formal judicial channels. It is explicitly prohibited to implement *qisas* outside judicial authorization, and even when the offender is handed over to the victim's heirs, any abusive act toward the body is forbidden to prevent justice from devolving into cruelty or mutilation (12). This framework demonstrates that the philosophy of *qisas* legislation is not the transfer of violence to the family but the regulation of a private right within public authority to safeguard social order (4).

In positive Iranian law, this philosophy is translated into structural obligations: Article 156 of the Constitution identifies the Judiciary as the guardian of individual and social rights and as responsible for realizing justice, preventing crime, restoring public rights, and enforcing penal laws. Accordingly, *qisas* is not a self-help act but a governmental duty to stabilize justice and curb violence. Article 1 of the Criminal Procedure Code subjects penal

response to the discovery of truth, the protection of the rights of both the accused and the victim, and the promotion of reconciliation between parties, ensuring that *qisas* may be enforced only after a fair trial with procedural guarantees (13).

The expanded definition of intentional homicide in Article 290 of the Islamic Penal Code includes acts inherently lethal to indeterminate persons, signifying that the legislator also situates threats to public safety within the domain of intentional killing—extending the deterrent and order-preserving logic of *qisas* to collective harms. Article 381 specifies that the punishment for intentional homicide, upon the heirs' demand and fulfillment of conditions, is *qisas*, while simultaneously foreseeing the possibilities of *diyah* and reconciliation to transform hostility into social peace and collective restoration.

The overlap of penal sanction and civil compensation forms another link in this philosophy: Article 1 of the Civil Liability Act holds every deliberate or negligent harm to life or health as grounds for liability, ensuring that even when *qisas* is waived, restitution and social healing continue through private law mechanisms, thereby reinforcing the sanctity of life across the civil sphere.

The outcome of this structure is full compatibility between *qisas* and the preservation of social order: the certainty of response to intentional killing, combined with institutional openness to reconciliation and restitution, simultaneously produces deterrence and restores social capital (5).

Contemporary Iranian criminal law doctrine reinforces this logic through its focus on deterrence and social regulation. Ardabili explains that *qisas* in a system influenced by Imami jurisprudence functions as a definitive threat against the gravest breach of public order—intentional homicide—making such crimes irrational by increasing their expected cost (14). The heirs' discretion among *qisas*, *diyah*, and pardon both upholds the value of life and facilitates the transition from coercion to reconciliation; thus, *qisas* becomes an instrument of "justice-through-peace" rather than blind vengeance (15).

Goldouzian further demonstrates that proportionality in *qisas* is ensured through substantive, evidentiary, and procedural constraints: it applies only to the intentional killing of an innocent life, after rigorous proof and by a non-degrading method of execution. Wherever social order can be restored through reconciliation, the system inclines toward less violent alternatives; *qisas* thus operates as a mechanism of the rule of law to restrain violent self-help (6).

The connection between *qisas* and fair trial is analyzed in procedural literature as the link between private right and public order: guaranteeing the right to defense, the possibility of appeal, and the preservation of evidence in cases of intentional homicide sustains collective confidence in judicial legitimacy and prevents the erosion of public authority (16).

Modern jurisprudential readings, such as *Fiqh al-Imam al-Sadiq*, define *qisas* as a *haqq al-nas* (human right) that may be waived or reconciled but that simultaneously remains a public institution in an Islamic state. Either a controlled and legitimate proportional response is applied, or transparent civil–restorative mechanisms replace it. In both cases, the message remains constant: human life is not a private matter, and violations of it must be addressed in ways that preserve social cohesion and public trust (17).

The Objectives of the Shari'ah and Human Dignity as a Framework for Reinterpreting *Qisas*

The logic of penal response in the Shari'ah—especially in the Imami reading—is not executed in a vacuum; rather, it must be measured simultaneously against two criteria: first, the objectives of the Shari'ah, whose aim is

the protection of life, the restraint of violence, and the consolidation of a just public order; and second, human dignity, which establishes a threshold of non-degradation and a prohibition on humiliating treatment even toward the offender. Penal justice is defensible only when it both provides deterrence and answers the suffering of the victim's heirs, yet does not transgress the bounds of necessity in the infliction of suffering. Precisely at this point, the discussion of limiting the scope of harsh punishments, preferring restorative solutions, and accepting less violent alternatives is introduced not as a modern concession external to the Shari'ah, but as an internal extension of the same dignity-centered and *maqāṣid*-oriented logic.

The Place of the Objectives of the Shari'ah in Reconstructing the Purpose of Penal Rules and Narrowing the Scope of Punishments

Within the Imami corpus, although the term "*maqāṣid al-sharī'ah*" is employed less frequently in the style of al-Shāṭibī, the *maqāṣid* substance is internally present. Thus, the aim of penal rules is redefined within the horizon of preserving life, safeguarding the dignity of the believer, and stabilizing collective security, while the ambit of punishments is narrowed to the orbit of necessity and equivalence. In this framework, an analysis of *qisas* shows that its legitimacy lies in protecting collective life, not satiating a desire for revenge; the response must be proportionate, must not exceed necessity, and any increment beyond the required measure entails liability. Al-Muhaqqiq al-Hilli's formulation strengthens the requirement of equivalence and explicitly states that exceeding the necessary measure falls outside the rule of the *shar'* and contradicts the philosophy of guarding collective life; the restoration of moral–social balance—not the augmentation of the offender's suffering—is deemed the telos of penal response (5, 11).

The rule "*dar' al-ḥudūd bil-shubuhāt*" (ward off *ḥudūd* in cases of doubt), as a *maqāṣid*-based brake on the execution of *ḥudūd*, represents another facet of this logic: wherever a material doubt arises, the Lawgiver prioritizes the protection of dignity and the prevention of judicial error over the imposition of a *ḥadd*, opening the door to shifting from *ḥadd* to *ta'zīr* or even mere admonition. The normative message is clear: the aim of a *ḥadd* is not corporal chastisement per se, but the safeguarding of the community of faith and the repulsion of injustice; wherever the risk of injustice or error grows, the execution of the *ḥadd* is halted. In the realm of *ta'zīrāt*, the *maqāṣid* are explicitly reflected in the very definition of penal response: *ta'zīr* is "discipline short of *ḥadd*," serving deterrence and reform; its instruments—from reprimand to light corporal punishment and short-term imprisonment—are calibrated to necessity in view of the offender's character and social conditions. The Lawgiver's purpose is "effective reform by the least harmful means," not "maximal affliction," and this philosophy draws practical boundaries around penal violence, preferring restorative and re-socializing models to coercive punishments (18, 19).

In Shi'i governmental jurisprudence, the rule of "preserving the social order" (*ḥifẓ al-niẓām*) as the most important obligation determines the legitimacy and proportionality of governmental punishments; the ruler's discretion in *ta'zīrāt* is constrained by the community's general welfare, not by displays of state coercion. The implication is that wherever penal violence beyond necessity does not serve public order, its continuation lacks *shar'i* justification and must be replaced with less violent alternatives. In this reading, punishment is an instrument for just governance of society; redesigning the aims of punishment around the public interest and safeguarding Islam's public image becomes a *maqāṣid*-oriented strategy (4). The contemporary Imami vision completes this picture by distinguishing between devotional *ḥadd* punishments and "variable deterrent measures": within the domain of governmental measures, the goals are the re-admission of the wayward into the community of faith and the protection of the social

atmosphere; moving from punitive responses to restorative–social responses within the scope of the ruler's authority is legitimate so long as the health of the communal space of faith is preserved. Here, the *maqāṣid*—especially the preservation of dignity and the protection of the communal atmosphere of faith—form the core of penal goal-setting, with the logical result being a narrowing of bodily punishments and a preference for alternative measures (20).

This orientation is translated into binding rules in Iran's positive law. From its opening provisions, the Islamic Penal Code conceives the response system as extending beyond punishment, recognizing security and rehabilitative measures on par with *ḥudūd*, *qisas*, and *diyāt*; the legislature imports preventive–reformative purposes into the text of the law and obliges the criminal justice apparatus to employ less coercive tools purposefully to reintegrate the offender into social order. At the constitutional level, Article 36 places the dual barriers of statute and a competent court in the path of punishment, declaring any coercive response outside these two orbits illegitimate; the corollary is a constricted domain of punishment and the primacy of the addressee's dignity throughout adjudication. Regarding individuation and proportionality, Article 37 of the Islamic Penal Code enumerates multiple mitigating factors, obliging the judge to tailor the *ta'zīrī* response to the offender's motive, personal status, and role, and moving away from a monolithic escalatory penalty; this policy is the legal expression of mercy and reform in *maqāṣid* logic. With the definition and expansion of alternatives to imprisonment—such as probationary supervision, community service, fines, and deprivation of certain civil rights—imprisonment has been lowered from the "default response" to the "last resort," prioritizing non-custodial responses. This shift aims to prevent the destructive secondary effects of imprisonment and to uphold human dignity. Simultaneously, the Criminal Procedure Code, by obliging the judiciary to consider, in tandem, the rights of the accused, the victim, and society, and to avoid unnecessary detention, elevates the philosophy of procedure from mere prosecution to the balanced management of security, victims' rights, and the accused's dignity; this design is the procedural translation of *maqāṣid* at the stages of investigation and prosecution.

Human Dignity as a Criterion for a New Interpretation of Penal Justice in Imami Jurisprudence

In the Imami tradition, the intrinsic dignity of the human being—and especially the sanctity of the believer—is not a secondary moral recommendation but a primary criterion for assessing the legitimacy of any penal measure. This primacy requires a form of justice that avoids humiliating the human person even in response to crime. The well-known report, "the sanctity of the believer is greater than the sanctity of the Ka'bah," cited in the *hadith* sources relied upon by Imami jurists, is not merely a prohibition of insult or verbal abuse; it is a general rule banning any affront to honor and bodily integrity, even with respect to the wrongdoer. The legitimacy of punishment must be measured by this sanctity: a humiliating penal response, by violating the agent's dignity, constitutes an "illegitimate *ta'zīr*" and cannot ground justice (21). Penal justice in Imami thought is redefined from "mere confrontation with crime" to "preserving the actor's existential honor even after the offense," and this redefinition sets bright boundaries at both the evidentiary and execution stages.

Shaykh Murtada al-Ansari, in the discussion of "the prohibition of violating a believer's honor" in *al-Makāsib al-Muḥarramah*, develops a dignity-centered theory with direct penal implications: "humiliating the believer and violating his respect" is intrinsically forbidden, even if some rational purpose is claimed. The upshot is that, even as the state administers *ḥudūd* and *ta'zīrāt*, it is not permitted—under the pretext of order—to reduce the suspect or convict to an "object of humiliation" in investigation, interrogation, or execution of punishment (22). The contemporary translation of this foundation is the prohibition of torture, humiliation, and coercive extraction of

confessions, and the requirement of humane treatment of convicts; penal justice is just only insofar as it remains compatible with the addressee's intrinsic dignity and its instruments of detection and execution respect the boundaries of human honor.

This same criterion governs evidentiary rules. When al-Muhaqqiq al-Hilli conditions confession upon voluntariness and the absence of coercion, he lays the groundwork that, in Imami judicial doctrine, matures into the principle of invalidity of any confession obtained through threats, bodily harm, or degradation of personality. A criminal "truth" obtained at the price of trampling the accused's dignity is not a "legally cognizable truth" and cannot ground punishment (11). This logic evaluates justice not merely by the outcome of discovering crime but by the manner of discovery, privileging human worth over instrumental efficacy; a dignity-based reinterpretation of penal justice in Imami thought thus justifies the exclusion of evidence procured through degrading methods.

In the realm of response, al-Najafi, under the chapters of *qisas* and *diyāt*, explicitly states that *qisas* in Imami jurisprudence is a mechanism for rationalizing the response to crime and halting uncontrolled cycles of blood vengeance, not "unleashed emotional gratification." Therefore, any excess beyond equivalence, mutilation, or animalistic conduct—even by the heirs of the victim—is forbidden, and the red line of the killer's dignity remains intact even after conviction (5). In *Tahrir al-Wasilah*, Imam Khomeini constrains the ruler's discretion in *ta'zīr* by the interest of Islam and Muslims and conditions it upon avoiding disparagement of Islam and insult to believers; thus, even if a degrading penalty is claimed to be deterrent, because it results in the denigration of human dignity—and, consequently, the disparagement of the Shari'ah's visage—it is unlawful and remains outside the circle of justice (3). These restraints constitute a suite of humane limits of execution, by which penal justice proceeds only up to the boundary of necessity and dignity.

This dignity-centered model has been translated into binding language in Iran's constitutional and procedural law. Article 22 of the Constitution places honor on par with life and property as immune from violation and requires a narrow statutory warrant for any infringement; accordingly, in choosing the type and mode of punishment, the judge must treat the convict's social dignity as a fundamental interest, not a peripheral matter. Article 38 prohibits torture for obtaining confession or information, invalidates confession extracted under duress, and renders the offending official criminally liable; hence, criminal "truth" cannot be procured through instruments of degradation and denial of dignity, and any "acceptable justice" is necessarily dignity-based justice. Article 39 declares that any violation of the honor and dignity of an arrestee, detainee, prisoner, or exile is prohibited and punishable; thus, even at the zenith of the state's penal power—the stage of executing punishment—the convict's dignity remains a red line, and any model of punishment predicated on systematic humiliation must be rejected or narrowly construed.

At the procedural level, Article 7 of the Criminal Procedure Code makes respect for citizens' rights mandatory at all stages and, by reference to the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights, prohibits torture, humiliation, unwarranted disclosure of personal secrets, and degrading searches, deeming the evidence obtained thereby invalid. This means that fair trial in Iran is intrinsically a dignity-based process, and human dignity becomes an invalidating criterion for the legitimacy of prosecution and investigation. At the level of penal policy, Article 64 of the Islamic Penal Code, by introducing alternatives to imprisonment—probationary supervision, community service, fines, and deprivation of social rights—shifts the penal response from dignity-eroding prison-centrism to a restorative and re-socializing model and calls for designing reactions proportionate to the offender's personality and the victim's situation. The clear message is that if punishment becomes a tool for crushing human identity, it is no longer defensible within the logic of the current law.

Jurisprudential and Ethical Foundations for the Possibility of Substituting Organ Donation for *Qisas*

In this section, the study turns to a feasibility question: whether, in lieu of carrying out *qisas al-nafs* in the traditional manner, one can define a substitute whereby the blood-right of the victim's heirs and their demand for justice would be realized through another route—such as transplanting the organs of a person sentenced to *qisas* and thereby saving the lives of several patients on the brink of death. To answer this question, this discussion extracts the principal elements of legitimacy for such a substitution, including that *qisas* in Imami jurisprudence is, at its core, a convertible private right of the victim's heirs rather than a mandatory state duty; that the offender's body, even after conviction, retains an independent status under the rule of the sanctity of the believer and the prohibition of mutilation, and cannot be reduced to a consumable object; and that anything obtained under threat—whether *qisas* or the transfer of an organ—constitutes, in jurisprudential and legal terms, coerced rather than free consent and is insufficient to legitimate a grave interference with the human body. Accordingly, this discussion articulates the prohibitive criteria, the bounds of possibility, and the ethical–juridical red lines that must stand before any scenario of "life-giving *qisas*."

A Jurisprudential Analysis of the Rules Governing Permissibility of Substitution

In Imami jurisprudence, the right of *qisas* for intentional homicide is a private right of the victim's heirs and is treated as a power subject to exercise, waiver, and exchange. That is, they may enforce *qisas*, pardon it, or convert it to a monetary substitute even if the amount exceeds the scheduled *diyah*, and such conversion is intrinsically legitimate and effective. The provisions on co-heirs in *Tahrir al-Wasilah* state that some heirs may pardon gratuitously while others may reconcile for an agreed payment, and thereafter the remaining rights-holders may carry out *qisas* after paying those amounts; and if all agree to a monetary substitute, *qisas* falls and the financial equivalent is put in its place (3). The formulation in *Shara'i al-Islam* likewise classifies *qisas* among the heirs' rights as waivable and compromise-eligible, highlighting its reconciliatory dimension with the expression "they exact *qisas* or make peace." The result is that *qisas* is not the only "method" of achieving justice but one "option" alongside agreed alternatives, and thus the rule permitting substitution gains a firm jurisprudential foundation (11).

The rule "*la yubṭal damu imri'in muslim*" (the blood of a Muslim is not rendered void) directly supports the legitimacy—and at times the obligation—of alternatives where *qisas* is impossible; if enforcement of *qisas* becomes infeasible for any reason, such as the killer's escape or death before enforcement, the jurisprudential system does not allow the victim's blood to be neglected. Instead, *diyah* is paid from the offender's property, his *'āqilah*, or ultimately the public treasury (*bayt al-māl*), so that the non-nullification of blood is realized (3). *Jawāhir al-Kalām* likewise states that because protected blood must not be voided, financial reparation is provided from sources stipulated by the *shar'*; monetary substitution is therefore not an exceptional moral indulgence but a corollary of a general rule safeguarding public order and the sanctity of life (5). Financial and restorative alternatives are mechanisms that guarantee justice in the absence of the possibility of *qisas*, and the jurisprudence itself designs this continuum of responses.

There is also a case of mandatory substitution in Imami sources: "*lā yuqtalu al-wālidu bi-waladihi*" (the father is not executed by *qisas* for killing his child). The father is not subject to retributive execution for the killing of his child; however, the non-permissibility of *qisas* does not entail exoneration, for liability to *diyah* and *ta'zīr* remains in place, thereby preserving both the heirs' right and the public interest (3). Detailed jurisprudential analysis shows that the

bar on *qisas* in this case serves to prevent the disintegration of the family structure and to avert a greater harm, shifting justice from death-for-death to a *ta'zīr–diyah* model; this shift constitutes prudential justice, not a departure from justice (23). The sources thus teach that the ambit of *qisas* is confined to necessity; wherever the goals of preserving family and social order require, financial and governmental alternatives are substituted.

Even where *qisas* is substantively warranted, its immediate and mechanical execution is impermissible if it would annihilate the right to life of an innocent third party. In the case of a pregnant woman sentenced to *qisas*, execution is postponed until childbirth—and, according to some opinions, until the end of the nursing period if the infant's survival depends on the mother (3). This suspension is, in effect, a temporary substitution of punishment by custodial and protective measures to ensure the preservation of the non-offender's life; by suspending *qisas* and applying less violent measures, the jurisprudence redefines justice in relation to dignity and third-party rights. In cases of disagreement among, or legal incapacity of, the heirs, authority passes to the religious ruler (*ḥākim al-shar'*) to decide—according to public interest—among pardon, monetary reconciliation, or *ta'zīr* of the offender; this transfer shows that substitution is not merely a private arrangement but can also be orderly and rational at the level of governmental ruling (3). The normative basis for this framework is also the preservation of the believer's sanctity and the prohibition of excessive harm, emphatically underscored in Imami ethical–jurisprudential traditions (21).

These principles are rendered into binding language in positive law as well. Article 381 of the Islamic Penal Code (2013) formalizes a tripartite pattern of responses to intentional homicide: *qisas* upon demand and fulfillment of conditions; otherwise, *diyah* and, as appropriate, *ta'zīr*. The legislator situates *qisas* within a network of convertible responses. In the policy domain of reducing penal violence, the chapter on alternatives to imprisonment—especially Article 64—provides for probationary supervision, community service, fines, and deprivation of social rights, steering the court toward alternatives with regard to the offender's situation, the complainant's pardon, and the circumstances of the offense; the very logic of peace and *diyah* alongside *qisas* is now institutionalized within *ta'zīrāt*. Procedurally, Article 82 of the Criminal Procedure Code allows the judge, in minor *ta'zīrī* offenses, to grant the accused time to obtain the victim's pardon or to compensate damage and to refer the case to mediation—i.e., a processual translation of substitution prior to final judgment. The Law on Organ Transplantation from Deceased or Brain-Dead Patients affirms a legal capacity to save others' lives rather than focusing solely on taking the convict's life, demonstrating that Iranian legal policy also recognizes the life-affirming dimension of penal response (8, 9). Article 429 of the Islamic Penal Code and the regulations on executing death-depriving sentences require the setting of deadlines and prohibit indefinite retention of the *qisas* convict, directing the court toward one of the alternatives—pardon, monetary reconciliation, or timely execution—and deeming the boundless suspension of the convict's life unjustified.

Contemporary legal doctrine confirms and completes this substitutionary logic from a criminal policy perspective. Jurisprudential–legal analyses of discrimination in *qisas* show that the condition of equal *diyah* in some cases turns *qisas* into *qisas* conditional upon paying the *fāḍil al-diyah* (difference in *diyah*) or even into *diyah* alone; convertibility is embedded within our penal justice, and monetary reparation serves as an instrument of balance that avoids structural discrimination in blood-compensation (24). Legislatively, after 2013, the shift away from incarceration-centrism toward community-based and supervision-oriented responses indicates that punishment is moving away from deprivation of liberty and the imposition of suffering toward reintegration and the healing of the victim–offender relationship; this is the very logic by which the *fiqh* of *qisas* recognized *diyah* and reconciliation alongside deprivation of life when public interest, the sanctity of life, and human dignity so require (25). Studies of judicial criminal policy

also show that, despite legal capacities, the practical use of alternatives to imprisonment remains limited; this gap between substitutability and a penalty-centric legal culture underscores the importance of entrenching the substitution approach in practice (26). The alignment of Iranian law with the global dignity-centered movement in the field of alternative sanctions links human dignity to the transformation from revenge to restoration and makes substitution a hallmark of contemporary justice (27). Discourse analysis of reform and treatment in the 2013 Penal Code reveals that institutions such as postponement of judgment, suspension of prosecution, semi-liberty, and tightened parole redirect justice from rigid imprisonment and *qisas* toward rehabilitation and reintegration; this is the same internal logic of Imami jurisprudence in preferring reconciliation and *diyah* over taking life whenever public interest, the sanctity of blood, and human dignity so dictate (28).

Assessing Ethical Considerations, Informed Consent, and Shar'i Standards

In Imami logic, the assessment of any penal-response substitute is organized around the protection of the addressee's intrinsic dignity. The maxim "the sanctity of the believer is greater than the sanctity of the Ka'bah" functions as a normative–jurisprudential rule, not merely a moral exhortation; it is a binding measure that forbids all forms of humiliation, mutilation, and the reduction of the convict to an "object of disposal." For this reason, even where a person has offended, interference with his body and honor is permissible only with valid authorization and within the limits of necessity (21). The same foundation is legally elaborated in Shaykh al-Ansari's treatment of "the prohibition of violating a believer's honor" in *al-Makāsib*, where he holds that any humiliation or insult is intrinsically forbidden—even if a rational purpose is claimed. The result is that any substitution scenario—from reconciliation and *diyah* to using the convict's bodily capacities for humanitarian ends—is legitimate only if it does not offend his dignity or place his body under a regime of unrestricted permissibility (22). Dignity-based justice is the precondition of any substitution: if the instrument of substitution entails crushing human status, it falls outside the orbit of the *shar'* and becomes an illegitimate *ta'zīr* (22).

The doctrine of informed consent in Imami jurisprudence rests on "valid authorization" and the removal of essential ignorance. In the chapter on physicians' liability, medical intervention is, by its nature, an interference with another's life and limbs and is impermissible without the permission of a rational adult; if harm occurs, liability follows. However, if the patient authorizes with sufficient knowledge of the nature of the procedure and its risks, and the physician is skilled and trustworthy, liability is lifted—the same framework now termed "informed consent" (5). As al-Muhaqqiq al-Hilli states, the probative force of confession and the validity of authorization depend upon voluntariness; coercion nullifies the legal effect of consent, and authorization lacking adequate knowledge has no permissive validity (11). Therefore, in penal-substitution contexts, a declaration of "I consent" uttered under the shadow of the threat of *qisas* is invalid both as to voluntariness and as to detailed awareness of consequences; such "consent" cannot legitimate grave interferences with the body (11).

The rules "no harm and no harming" (*lā ḍarar wa lā ḍirār*) and the prohibition of "casting oneself into destruction" delineate another clear boundary for the legitimacy of substitutes: consent—even if genuine—does not suffice to license an act that, by common judgment, deliberately destroys a vital organ or inflicts gross, irreparable harm, unless there exists an actual *shar'i* necessity aimed at saving a protected life (18). In *Tahrir al-Wasilah*, the default is the requirement of authorization and adherence to scientific standards in medical interventions; only in emergencies involving imminent peril to life may necessity temporarily replace consent. Outside that state, severe interference—even with a formal signature—is still prohibited under the rule against unauthorized bodily

interference, and liability persists (3). The result is that scenarios such as removing a vital organ from a living convict as a substitute for taking life cannot be rendered lawful by consent alone so long as they do not fall under an actual necessity and all technical–*shar'i* constraints are not satisfied (3).

A jurisprudential distinction among consent, discharge (*barā'ah*), and necessity is also fundamental. In *Tahrir*, even with consent, a medical act can still ground liability if performed without valid discharge and without compliance with technical standards; in urgent necessity, intervention without immediate consent is permissible to save life, subject to observance of the rules (3). On coercion, al-Ansari states explicitly that a subjugated will is not a valid will and that a transaction based upon it is ineffective or void; this carries over to *qisas* and reconciliation on *diyah*: pardon or settlement is legitimate only where there is "mutual consent out of free choice" (22). Any substitution agreement that places the convict in a forced dilemma—execution or surrendering the body—is vitiated as to voluntariness and lacks permissive effect over his body (22).

Iran's positive law converts these jurisprudential red lines into binding rules. Article 158 of the Islamic Penal Code provides that a lawful medical intervention is not criminal where it is carried out with the consent of the person (or legal guardian) and in compliance with technical rules and regulations; in life-threatening emergencies, the absence of the possibility of obtaining consent does not bar intervention. Article 497 addresses the bases of physicians' liability, stating that in necessity, with observance of scientific standards, criminal and civil liability is lifted; outside necessity, valid consent is a necessary—but not sufficient—condition, and compliance with standards must also be established. The Law on Organ Transplantation from Deceased or Brain-Dead Patients conditions organ retrieval upon prior testament or the deceased's guardian's consent and upon the determination of brain death by independent specialists; its philosophy is the saving of life, not the execution of punishment or trafficking in the convict's body (8, 9). Article 7 of the Criminal Procedure Code obliges all authorities to respect citizens' rights, including the prohibition of physical and psychological coercion, and treats violations as criminally sanctionable. In parallel, the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights and Article 38 of the Constitution prohibit any torture for obtaining confession or compelling other acts and invalidate any confession obtained thereby; consequently, consent extracted under penal duress is not valid consent and cannot authorize bodily interference or the waiver of a fundamental right (16).

Contemporary doctrine in medical law and criminal procedure further develops this framework. Research in medical ethics characterizes informed consent as a process grounded in explaining the nature of the intervention, its necessity, consequences, and possible alternatives; a mere formal signature, without adequate disclosure, is not only ethically invalid but also judicially insufficient to confer permissive effect (29). Analyses of physicians' liability likewise state that, even with consent, deviation from professional standards sustains liability; hence, any substitution plan that involves the convict's body in another's therapy lacks legitimacy absent guarantees of standards and professional oversight (30). The literature on the lapse of physicians' liability distinguishes between consent and discharge, showing that only valid discharge—free of coercion and not contrary to public moral order—removes civil consequences; a signature obtained under penal pressure does not create valid discharge (31). In parallel, dignity-centered procedure now recognizes that any coercion to procure pardon, to secure consent for a degrading examination, or to accept an agreement altering one's bodily status or right to life violates citizens' rights and incurs liability (13). The law of prisoners reminds us that the state's relationship to the convict is not a plenary guardianship; any practice that reduces him to a means for others' ends—from symbolic deterrence to medical benefit—contravenes the principle of dignity and falls outside *shar'i* and legal standards (32).

In sum, the legitimacy of substituting a penal response, from the standpoint of Imami jurisprudence and Iranian law, rests on four mutually reinforcing criteria: first, dignity-centeredness and the prohibition on turning the convict into an object of manipulation and humiliation (21); second, truly informed and free consent, not consent shaped by penal compulsion and threat (22); third, adherence to an actual *shar'i* necessity in high-risk bodily interventions, with the rescue of a protected life taking precedence over any other interest (3); and fourth, compliance with technical standards and comprehensive judicial–professional oversight at every stage, from obtaining consent to implementation. Any mechanism that satisfies these criteria may, within the Shi'i juridical–legal framework, be considered a legitimate substitute for penal response; anything that violates even one of these criteria—even under a claim of public interest—departs from dignity-based justice and is unlawful.

A Proposed Model and the Jurisprudential–Social Consequences of Substituting Organ Donation for *Qisas*

This study explains the institutional form of the idea and shows that if a model substituting organ donation for implementing *qisas* is to be recognized, it must necessarily rest on an institutional triangle: first, transparent judicial oversight by the sentencing judge to ensure that the process remains outside the logic of private revenge or covert bargaining over the convict's body and proceeds within a framework of formal, recorded legitimacy; second, the presence of the victim's heirs as holders of the *qisas* right, empowered to choose among enforcement, pardon, or a life-giving reconciliation, thereby maintaining the affective–moral linkage between private justice and public justice; third, intervention by forensic medicine and a medical ethics committee to verify clinical feasibility, ensure the convict's informed and voluntary consent, safeguard bodily dignity before and after death, and fully record the medical steps so that the human body is not reduced to an "ownerless pool of organs." If these constraints are observed, *qisas* rises above the mere deprivation of the offender's life and may be perceived publicly as a process that both recognizes the bereaved family's pain, preserves deterrence, and—*in the name of the victim*—bestows concrete new life on others. In this way, the verse "*and for you in retribution there is life*" can be read not only as a deterrent threat but also in the positive sense of generating collective life. Conversely, if these constraints are absent, the same model immediately departs from dignity-centered justice and collapses into commodifying the convict's body and normalizing instrumental domination over the human person—outcomes unacceptable in Imami jurisprudence and constitutional law.

Institutional, Judicial, and Medical Framework for Implementing the Substitute Model in Light of Maqāṣid-Based Jurisprudence

In Imami logic, the right to enforce *qisas al-nafs* is a private right of the victim's heirs that becomes executable only upon establishing all substantive and evidentiary conditions of intentional homicide and then upon the right-holder's demand, within the channel of authorization and supervision by the religious authority. Hence, jurists do not permit *qisas* to be implemented outside the oversight of a fully qualified judge, and they even emphasize the presence of an authorized officer and the official recording of the manner of enforcement to prevent any excess, transgression, or personalization of revenge (5). This framework shows that, in the juristic view, *qisas* is an institutionalized process, not an unregulated individual reaction—a point easily recast within the substitute model of "life-giving organ donation in place of taking life": operational control should be a triangle composed of "the sentencing judge" to secure judicial legitimacy and discipline, "the victim's heir" to exercise the private right and enable reconciliation or conversion, and "forensic medicine" to determine medical feasibility and protect bodily

sanctity (5). Within the same system, the manner of enforcing *qisas* is itself subject to regulation and requires official and technical oversight; translating the *maqāṣid* of preserving life and public order implies that any substitute model must take shape under a joint judicial–medical–*shar'i* protocol, not through hidden agreements or administrative decisions lacking juristic grounding (5).

Imami jurisprudence explicitly insists—regarding the mode of enforcement—on beneficence in killing and the prohibition of any torture, mutilation, or excessive harm; jurists derive from the report "when you kill, kill well" that the instrument must be sharp, conscious pain minimized, and any superadded harm entails liability (5). In contemporary governmental *fiqh*, the aim of *ḥudūd* and *qisas* is "to establish justice and deterrence," not to inflict surplus suffering; accordingly, the use of medical measures such as anesthesia during corporal punishments to negate excess affliction has been deemed permissible (33). In *Tahrir al-Wasilah*, "the manner of enforcement" is treated as a regulable domain within the public interest of the Islamic community, and the ruler's discretion over the mode is constrained by the preservation of the believer's honor and avoidance of disparaging Islam; this supports transferring *qisas* to a hospital setting with deep anesthesia, the presence of a trustworthy physician, and precise forensic documentation (3). The upshot is that, where the "blood-right" is enforced in a way that, on one side, preserves the lawful solace of the heirs and deterrence and, on the other, eliminates surplus pain and degrading conduct, the *maqāṣid*-based telos—"and for you in *qisas* there is life"—is better realized (5).

The principle of dignity, before and after death, is a non-derogable minimum in structuring this framework. Reports such as "the sanctity of the believer's body after death is as his sanctity in life" treat the believer's corpse as equally inviolable and deem any violation—even breaking a bone—actionable; the implication, in a substitute model, is a duty of covering and modesty, a ban on degrading dissection, separation of roles between the death-determination team and the transplant team, and strict adherence to standards of care and documentation (18). The Single-Article Act on Organ Transplantation from Deceased or Brain-Dead Patients authorizes organ retrieval only with valid testament or the legal guardian's consent and after collegial determination of brain death by independent specialists, and it forbids unifying the diagnostic and transplant teams; this consent-based, professional-segregation model furnishes the legal skeleton for extending *qisas* into a post-mortem or controlled-dying donation framework. Article 543 of the Criminal Procedure Code requires the presence, at every execution of a life-depriving sentence, of the sentencing judge, a prison representative, the executing officer, and a forensic physician or trusted doctor, and it conditions legal recognition of death on the physician's confirmation—rules that anchor the medical pillar of this model. In the same vein, the Law Establishing the Legal Medicine Organization designates that body as the Judiciary's official expert arm for ascertaining life and death and supervising bodily effects of sentence enforcement, securing its institutional place in the architecture of the substitute model. The Regulations on Enforcing *Ḥudūd* and *Qisas* standardize the chain "authorization, judicial oversight, medical verification, documentation" in the chapter on *qisas al-nafs*, requiring pre-execution examination, confirmation of the absence of medical impediments, and a post-execution report by both physician and judge—an operational platform that enables a hospital-protocol implementation.

The statutory mechanism of conversion is also explicit in the Penal Code: Article 429 recognizes three paths—"pardon," "reconciliation for *diyah* (less, equal, or greater)," and "demanding *qisas*"—and obliges the judge to activate the pathways of settlement and reparation before enforcement; thus, the "blood-right" is intrinsically convertible and tradable, opening a gateway for designing life-giving substitutes. Governmental *fiqh* has developed regulation of the mode of enforcement to the point of defending the issuance of a governmental order that moves

the realization of *qisas* from severing the neck to "retrieving vital organs under deep anesthesia and a medical-ethics protocol" to save multiple patients in urgent need—the core argument being the priority of the *maqāṣid* of "preserving life," alongside enforcing the heirs' right and strengthening collective security (8). Functional analyses likewise show that this model preserves the penal and deterrent dimension, enables dignity-centered solace for the heirs by recording the "gift of life" in the victim's name, and strengthens distributive justice in access to life (8). From a health-law perspective, a comparative study emphasizes that Iran's transplantation framework is already built on three pillars: valid consent, multi-expert oversight, and the prohibition of grave harm; translating these pillars into the *qisas* domain aligns with both *maqāṣid* and positive law (9). In newer criminal-law literature, even a model of "executing a capital sentence in tandem with organ donation" has been sketched under a protocol involving the ethics committee, the sentencing judge, and forensic medicine, so that the process becomes justice-*through*-*life* rather than elimination-*then*-*burial*; in this model, team separation, consent verification, and full medico-legal recording are core elements (34). The conclusion is that, by relying on a convertible private right, judicial and medical oversight, and the principles of dignity and beneficence in enforcement, one can design an institutional–judicial–medical framework for a life-giving substitute for *qisas* that both satisfies the right and more fully realizes the objective "and for you in *qisas* there is life" (5).

An Analysis of the Jurisprudential, Social, and Justice-Oriented Effects of Substituting Organ Donation

In Imami jurisprudence, *qisas al-nafs* is a private right of the victim's heirs, not a peremptory state duty; just as its enforcement is valid upon their demand, its waiver and conversion through reconciliation are also effective. This foundation is drawn from the rule "reconciliation is valid among Muslims, except a reconciliation that makes lawful what is unlawful or forbids what is lawful," which al-'Allāmah al-Hilli deploys to ground the possibility of converting the *qisas* right into a lawful equivalent (whether the scheduled *diyah* or any rational consideration) (35). The practical implication is that, where "voluntary organ donation" is situated within a reparative reconciliation, with valid consent of both the offender and the heirs, it may be treated as the consideration of peace and shift the path of justice from retaliatory deprivation of life to "life-giving reparation" (36). Imami *fiqh* regards *qisas* as a right constrained by equivalence and forbids any excess, mutilation, or harm beyond the measure of the crime; any forced removal of an organ from a living convict that surpasses the "taking of life" falls outside legitimate *qisas* and amounts to mutilation (5). Imam Khomeini, while affirming that *qisas* is a waivable right, states in medical matters that removing an organ from a Muslim corpse for transplant is permissible only where necessary to save another's life and with observance of the rules; interference with the living body prior to death—if it entails essential loss—is not permissible. Thus, organ retrieval before the realization of *shar'i* death cannot be a form of *qisas* execution, whereas post-mortem retrieval, under necessity and supervision, attains legitimacy (3). This juristic line is completed by the "no harm" rule, which restrains any rule or authority from imposing unjustified surplus harm on the obligated person and, as a governing principle, constrains even the heirs' and the ruler's powers within the bounds of prohibiting excess harm (18). At the level of governmental *fiqh*, "preserving order" and safeguarding society's life are superior objectives; the manner of enforcing *qisas* is thus regulable by government, provided it does not transgress the limits of dignity, the ban on mutilation, or the prohibition of medical coercion, and provided it, while enforcing the right, brings the system closer to the objective "and for you in *qisas* there is life" (4).

These foundations are translated into binding language in Iran's positive law. Article 429 of the Islamic Penal Code places three avenues before the heirs: pardon, reconciliation for *diyah* (less, equal, or more), and demanding

qisas; thus, the law itself designs *qisas* as a "convertible right," not a "duty to kill." Alongside this, Article 381 declares that the punishment for intentional homicide is *qisas* upon the heirs' demand and subject to legal conditions, and otherwise it converts to *diyah* and *ta'zīr*—an indication that the system structurally accommodates reparative solutions. Regarding medical intervention, Article 158 provides that a lawful medical act is not criminal where carried out with valid consent of the beneficiary and in compliance with scientific standards and regulations; hence, any transplantation scenario lacking "informed consent" and "inherent lawfulness of the intervention" is indefensible in criminal law. Article 495 holds the physician liable for harm caused by intervention unless valid prior consent is obtained and technical principles are strictly observed; even with consent, deviation from professional standards entails liability, and without consent, the intervention is prima facie criminally and civilly prohibited. In health policy terms, the 2000 Law on Organ Transplantation from Deceased or Brain-Dead Patients authorizes retrieval only after collegial determination of brain death and with testament or the guardian's consent; the framework shows that "life-giving transplantation" is accepted in Iranian law but only under valid consent and multilayered expert oversight. Taken together, these texts provide the legal groundwork for any "controlled, life-giving death" model: a convertible private right, the necessity of informed consent, and professional medical supervision (8, 9).

Socially and in justice terms, linking *qisas* with organ donation can forge a new balance between "lawful solace" and "collective repair," but only if four conditions are met simultaneously: the convict's free and informed consent; the heir's meaningful participation in the decision; guarantees of the convict's dignity up to the moment of death and after; and strict adherence to medical-ethics standards. Interdisciplinary *fiqh* literature has analyzed this as a "mode of enforcing a capital sentence in the operating room with full anesthesia and immediate retrieval of vital organs"; proponents argue that this combines penal justice with therapeutic justice and ensures that organs reach needy patients before deterioration (8). Critics focus on the "consent problem": is consent truly free under the shadow of death? Does this risk instrumentalizing the convict's body and normalizing violations of bodily sanctity? This ethical warning underscores the need for an independent ethics-committee review of consent and an unconditional right of withdrawal (34). Iranian health law does not treat "informed consent" as a mere signature; it requires precise disclosure of the intervention's nature, major risks, and possible alternatives—without which consent is ethically invalid and, judicially, insufficient to confer permissive effect (29). In procedure, it is likewise stated that the criminal process is intrinsically dignity-centered and that any physical/psychological coercion to obtain confession, pardon, or consent violates citizens' rights; "consent under pressure" is neither valid nor a basis for medical permissibility (16).

The logic of prisoners' rights reminds us that the state's relationship with the convict is not plenary guardianship; any practice that reduces the person to a means for others' ends—from symbolic deterrence to medical benefit—contravenes the principle of dignity and falls outside *shar'i* and legal standards (32). The intersection of the three domains—*fiqh*, law, and justice policy—shows that the model of "organ donation as a substitute for *qisas*" is justified from a justice-oriented perspective only when (i) it rests on the heirs' convertible private right and the possibility of reconciliation, (ii) it is strictly confined within frameworks of informed consent and the prohibition of surplus harm, and (iii) it preserves the convict's dignity at the moment of death and thereafter without ambiguity. Any departure from these constraints degrades the proposal from "life-giving repair" to "instrumentalization of the human body," rendering it incompatible with Imami foundations and constitutional principles. If these constraints are properly institutionalized, one may hope that the enforcement of the blood-right—while remaining faithful to deterrence—will

move closer to the *maqāṣid* goal of "preserving life," elevating justice from the plane of private revenge to that of dignity-centered public benefit (9).

Conclusion

Based on the arguments advanced in this study, *qisas al-nafs* in Imami jurisprudence and in Iran's criminal justice system—if read correctly and from within—is not merely a mechanism of "death for death," but an institution that performs three functions simultaneously: first, it guarantees that intentional, unjustly shed blood never goes unanswered and that the heirs of the victim, in a formal and lawful posture, possess the right to demand justice; in this way it sends society a clear deterrent message that intentional homicide carries a definite and foreseeable cost and that one cannot kill a protected person and then evade accountability by hiding in procedural or tribal gaps. Second, it restrains the cycle of private blood-feud and clan-based vengeance, relocating violence from a self-help, uncontrollable, escalating arena into a limited and reviewable judicial process—so that *qisas* is not the unleashing of violence, but its disciplining and domestication. Third, even where *qisas* is enforced, it is kept under the canopy of human dignity and does not permit justice to collapse into torture, humiliation, or mutilation; *qisas* is permissible only up to the boundary of "necessary equivalence without degrading surplus," and any excess—however couched in claims of solace or displays of authority—ceases to be legitimate *qisas* and becomes injustice, entailing liability.

This understanding distinguishes *qisas* from unbridled personal revenge and explains why the Qur'anic statement "and for you in *qisas* there is life" is not merely a promise of cold, security-oriented deterrence, but speaks from a logic of preserving public life: in a society where intentional homicide does not go unanswered, the incentive to commit it diminishes and future lives are preserved; and in a society where the response to intentional homicide occurs under judicial supervision and with prohibitions on excess, mutilation, and torture, the fury of revenge is converted into a recorded, law-governed demand, and unrestrained violence does not proliferate. In this architecture, *qisas* is instituted from the outset to safeguard life, not to multiply death.

But this is only the first side. The second is that, in Imami jurisprudence and in Iranian law, *qisas al-nafs* is a "right," not a "state mandate." Jurists and legislators maintain that *qisas* is not an individualized, peremptory governmental obligation to kill; rather, it is a power vested in the victim's heirs to restore the moral equilibrium disrupted by intentional homicide. The heirs may demand *qisas*, may pardon it, may convert it into *diyah* or other compensation, and may even—by accepting an amount greater than the scheduled *diyah* or by reaching another reparative agreement—forego enforcement of death. This reconcilability and susceptibility to lapse mean that justice, in this framework, is not necessarily tied to killing the offender; it can be realized by rebuilding social and moral relations through reparation, agreement, and pardon. At that point, *qisas*, which outwardly appears the most severe penal response, becomes in practice a gateway to repair: blood-vengeance is converted into a controllable legal claim, and a controllable legal claim can voluntarily open onto pardon and reconciliation—reconciliation that is not a "weakening of justice," but one of its modalities, because it stabilizes moral order and collective security without producing new violence.

This flexible logic—that *qisas* is a right that can be waived and converted—opens the third side of the discussion: whether, in some cases, instead of carrying out the traditional deprivation of life, we might consider a model in which the heirs, in the name of the victim, waive their right to kill and, in return, seek or accept something not merely pecuniary but "life-giving," for example saving the lives of several patients on the brink of death through the retrieval of organs from a person otherwise subject to *qisas*. The idea is that justice would still be realized, the sanctity of

the victim's blood would be vindicated publicly, and the deterrent message against intentional homicide would remain—yet, instead of the final response being solely the physical elimination of the offender, the practical outcome of the process would be the "production of new life," and *qisas*, which promised life from the beginning, would realize life not only as a mental deterrent but as a concrete, biological fact.

The study shows that Imami jurisprudence and Iranian law have both the theoretical capacity to approach this vision and the very hard red lines without which the entire picture collapses from dignity-centered justice into commodification of the convict's body. Capacity arises from the fact that *fiqh* treats *qisas* as a right and rights are reconcilable, and reconciliation may have rational, non-pecuniary consideration; the law treats *qisas* as demand-contingent, and upon pardon the pathways of *diyah*, *taʿzīr*, or other reparative mechanisms open—meaning the state is not compelled always to go to the end and kill, but has deliberately left breathing space for ethical and social negotiation. Capacity also arises from Iran's health-law regime, which recognizes organ transplantation from a deceased or brain-dead person subject to valid consent and multilayer medical and judicial oversight, and defines it explicitly as "for saving another's life." This means that, in our contemporary legal logic, the human body after death can become a source of preserving others' lives—not as an ownerless object, but under consent, oversight, and respect.

The red lines are equally explicit—and they are precisely what ensures that, if this model is ever to take on a coherent legal and juristic form, it will remain within the orbit of justice rather than devolving into "forced organ harvesting from a convict" and the reduction of the person to an instrument. The first red line is that the human dignity of the convict—even a willful killer—is not extinguished, and his living body cannot be turned, by force or threat, into a medical resource; humiliation, degrading intrusion, mutilation, and the imposition of gross, unjustified harm are prohibited, and "consent" obtained under the shadow of a death threat is neither religiously nor legally valid. Hence no "either execution or hand over your organs" scheme can be legitimate, and any removal of vital organs from the living that annihilates the person is not *qisas* in Imami logic but mutilation and an independent crime. The second red line is that even after death the convict's body retains status, and any interference with it is acceptable only within frameworks where the necessity of saving others' lives has been established, valid prior consent or consent of authorized kin exists, and the entire process is supervised and recorded by the sentencing judge, forensic physician, and an ethics committee, so that the human body is not reduced to raw commodity or public spectacle. The third red line is that the heirs—the holders of the blood-right—must play a central role; if they are sidelined, the symbolic and affective justice that *qisas* was designed to preserve is emptied, and society again feels that blood has been left unprotected.

On the strength of this mix of capacity and constraint, the study's final conclusion is that, within the inner logic of the *sharīʿa* and the legal framework of Iran, *qisas* is an institution with three simultaneous anchors: a first anchor of decisive deterrence and the clear message that "innocent blood is not wasted," which protects psychological security and collective life; a second anchor of rights-orientation and reconcilability, which allows justice to be realized not only through death but also through pardon, reparation, social conciliation, and moral healing; and a third anchor of human dignity, which ensures that even a life-depriving punishment cannot reduce the human being to an object—neither at trial, nor at enforcement, nor after death. It is precisely at the junction of these three anchors that the idea of substituting "life-giving organ donation" for traditional enforcement of *qisas* can be proposed—not as an unfounded modern emotional display, but as a natural development of the very verse "and for you in *qisas* there is life": a transfer of penal justice from a merely retaliatory reaction to a dignity-centered process that produces

public life. This idea can be legitimate and defensible only if four conditions are met simultaneously: the convict's voluntary, informed, and uncoerced consent; the presence and agreement of the victim's heirs as holders of the blood-right; transparent judicial and medical oversight to prevent any humiliation or trafficking in the human body; and precise, official recording of every stage as part of due process, not as a covert bargain. If these conditions are satisfied, *qisas* can be elevated from an institution that guarantees only "just death" to one that also generates "just life." If they are breached, the model becomes illegitimate and anti-dignity at once, reverting to what *fiqh* and law have always fled: turning the errant human body into a commodity.

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Authors' Contributions

All authors equally contributed to this study.

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Ethical Considerations

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Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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