



Jurisprudential–Legal Analysis of Conciliation Mechanisms in Qisas Crimes in the Era of Medical and Genetic Technology

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Abstract

In recent years, remarkable advances in the fields of medicine and genetics have introduced new dimensions to criminal responsibility, criminal justice, and particularly the concept of qisas within Islamic jurisprudence and law. In the Islamic criminal justice system, qisas, as one of the most significant sanctions for crimes against life, has always occupied a sensitive position at the intersection of justice, mercy, and social interests. However, in the context of modern Islamic civilization—and in light of new scientific data regarding the genome, heredity, environment, ethnicity, and gender—the need to reconsider the jurisprudential and legal foundations of qisas, along with the potential for conciliation and its conversion into lesser punishments, is increasingly evident. The central question of this study is: “Given developments in genetic and medical science, what jurisprudential and legal mechanisms for conciliation are conceivable in crimes warranting qisas, and how can such mechanisms be harmonized with the principles of Islamic justice?” The findings of the research indicate that by relying on jurisprudential rules such as the principle of la-darar (no harm), the rule of destruction (qa‘idat al-itlaf), the rule of causation (qa‘idat al-tasabbub), and the principle of justice, it is possible—when the criminal behavior is attributable to treatable genetic incompatibilities or environmental factors—to replace the implementation of qisas with alternative or therapeutic sanctions. This approach, while preserving the philosophy of deterrence and criminal justice, also aligns with human dignity and the principles of human rights. The research method is descriptive–analytical and is based on library, jurisprudential, and legal sources. The study concludes that conciliation in qisas, in the light of modern biotechnologies, can be regarded as a step toward achieving restorative justice and rationalizing the Islamic criminal justice system.

Keywords: Qisas, conciliation, criminal justice, genetics, medical technology, jurisprudential responsibility, modern Islamic civilization.

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1. Introduction

Retributive justice (*qiṣāṣ*)—as one of the most fundamental institutions of Islamic criminal law—is perceived as a manifestation of retaliatory justice and a response to the crime of intentional homicide. This institution, founded upon the principle of proportionality between crime and punishment, has historically faced two dominant jurisprudential tendencies. One group of jurists, emphasizing its deterrent and justice-centered dimension, considers the implementation of *qiṣāṣ* essential for realizing divine justice (Mūsawī Bujnūrdī, 1998). In contrast, another group, appealing to the spirit of mercy, forgiveness, and reform in the Sharī‘ah, regards conciliation and the conversion of *qiṣāṣ* into *diyyah* or other alternative punishments as superior and more consistent with the higher objectives of Islamic law (Al-Anṣārī, 1986). Despite these two perspectives, what necessitates renewed examination today are the dramatic transformations in medicine, genetics, and behavioral sciences, which offer new understandings of responsibility, volition, and causation in criminal conduct (Morse, 2011).

In the contemporary world, particularly within the framework of the emerging Islamic civilization, justice is not limited to punishing the offender; rather, it rests on a deeper recognition of the causes of crime, offender rehabilitation, and preventing recidivism. Genetic research and behavioral studies demonstrate that certain criminal actions may occur under the influence of genetic, environmental, or psychological factors, which—if identifiable and treatable—can justify refraining from imposing severe punishments such as *qiṣāṣ* (Shahzad et al., 2025; Yahaya et al., 2021). From this perspective, *qiṣāṣ* is reinterpreted not as an instrument of vengeance but as a mechanism for social and moral equilibrium, and conciliation within *qiṣāṣ* becomes an opportunity to integrate science and jurisprudence toward achieving human and divine justice (Wikström & Kroneberg, 2022).

The approach of this article is a jurisprudential–legal analysis of conciliation mechanisms in *qiṣāṣ* crimes in light of emerging scientific findings in genetics and medical technology. Using a descriptive–analytical method and relying on jurisprudential, legal, and scientific sources, the author seeks to demonstrate how jurisprudential maxims such as the rule of no harm (*qā‘idat lā-ḍarar*), the rule of causation (*qā‘idat al-tasabbub*), the rule of justice, and public welfare can serve as foundations for generating conciliation-based and alternative mechanisms in *qiṣāṣ* cases (Alishahi Qal‘eh Jouqi & Ṭā‘ī, 2022; Ṭabāṭabā‘ī Luṭfī & Rowshani, 2011).

The innovation of this research lies in its departure from traditional discussions on *qiṣāṣ*, analyzing the issue within the context of genetic science and modern biotechnologies, and attempting to explain the relationship among Islamic criminal justice, moral responsibility, and scientific findings. This article specifically examines how, in light of genomic knowledge, heredity, and environmental factors, it is possible in certain cases to substitute *qiṣāṣ* with mechanisms of conciliation, treatment, and reform—an approach that may pave the way for the transformation of penal philosophy in Islamic jurisprudence and a step toward restorative and humane justice in the technological age (Peletz, 2023; Trinh et al., 2024).

2. Research Background

Given the multi-variable and novel nature of the subject of this article, few prior studies exist. Nevertheless, several works have been scrutinized following the review of existing literature. In a research project titled “*A Jurisprudential and Legal Study of the Abolition of Qisas for Life in the Islamic Penal Code of 2013*”, supervised by Dr. Mohammadreza Shadmanfar and authored by Mahdi Salehi, the writer focused on Articles 382–386 of the Islamic Penal Code, examining the grounds for the abolition of *qiṣāṣ*, including pardon by the heirs of the victim, conciliation for *diyyah*, the offender’s death, and pardon by the Supreme Leader (Ṣāliḥī, 2016). The fundamental distinction between that study and the present article is that the current research moves beyond the traditional discussions on the abolition of *qiṣāṣ*, seeking to analyze conciliation not merely as a legal institution but as a dynamic mechanism for realizing justice in light of scientific and genetic developments.

Similarly, in an article titled “*A Jurisprudential–Legal Study of Converting Qisas of Life to Diyah in Cases Where the Killer Is Executed for a Hadd Crime*” written by Hojjatollah Fathi and published in *Fiqh* (Vol. 28, No. 2, Summer 2021), the author examined a significant gap in Islamic criminal jurisprudence and the 2013 Penal Code (Fathī, 2021). The central question was whether, if a murderer is also convicted of a *ḥadd* crime such as *moḥārabah* and is executed before the victim’s family can enforce *qiṣāṣ*, the *qiṣāṣ* converts into *diyyah*. The author, through rigorous analysis of Articles 133 and 435 of the Penal Code

and referring to Imami jurisprudence, concluded that execution of the *ḥadd* nullifies *qiṣāṣ*, yet its conversion into *diyyah* lacks valid jurisprudential and legal foundation.

In contrast, the present article seeks to redefine the concept of “conversion” or “conciliation in *qiṣāṣ*” in the context of justice within the emerging Islamic civilization and genetic–medical findings. Internationally, the study “*Genetics and Criminal Responsibility*” by Stephen J. Morse (2011, *Trends in Cognitive Sciences*) explored the impact of genetic data on criminal responsibility, concluding that despite the scientific progress in genetics explaining human behavior, no decisive foundation yet exists for removing criminal responsibility solely on genetic grounds (Morse, 2011).

3. Definition of Conciliation in Qisas

In jurisprudential terminology, *ṣulḥ* is a contract established to resolve disputes and conflicts, as elaborated by classical jurists (Ibn al-Humām, 1998). On the other hand, conciliation in *qiṣāṣ* refers to reconciliation between the heirs of the victim and the offender with the objective of eliminating conflict. In both jurisprudential and legal terminology, it is a type of contract designed to remedy disputes between litigants. Linguistically, *ṣulḥ* signifies peace, reconciliation, mutual agreement of disputing parties, and stands in opposition to war and hostility. In Islamic jurisprudence, *ṣulḥ* refers to an agreement reached through mutual consent to resolve a dispute and restore social relations, which may involve transferring property or benefits, waiving debts or rights, or establishing reconciliation between parties.

In the context of *qiṣāṣ*, conciliation specifically refers to an agreement between the holder of the right to *qiṣāṣ* and the offender to accept *diyyah*—whether equal, lesser, or greater—or to forgo *qiṣāṣ* entirely. It thus represents a form of waiver in exchange for compensation. Moreover, *ṣulḥ* is a contract whose purpose is the restoration of relations between disputing parties, a matter widely acknowledged in jurisprudential works (Kātūziyān, 2006).

Conciliation in *qiṣāṣ*, being based on the mutual consent of both parties rather than unilateral judicial or governmental intervention, is a legal and contractual act. Unlike certain forms of *qiṣāṣ* abolition such as unilateral pardon by the heirs or a governmental pardon, *ṣulḥ* requires mutual declaration and agreement. Various forms of settlement may occur, including reduction or increase of *diyyah*, combinations of monetary and rehabilitative measures, or agreements to refrain from enforcing *qiṣāṣ* in return for social, ethical, or financial guarantees. Hence, conciliation in *qiṣāṣ* is a crucial jurisprudential–legal tool for reducing violence, restoring social harmony, and protecting human dignity while upholding balanced justice.

Distinguishing *ṣulḥ* from similar concepts such as pardon or other instances of *qiṣāṣ* abolition is essential. While pardon is unilateral and does not require the offender’s agreement, *ṣulḥ* is based on mutual consent and occurs in exchange for compensation (Zayd ibn ‘Abd al-Karīm ibn ‘Alī ibn, 1989). Other instances of *qiṣāṣ* abolition—such as pardon by the victim’s heirs, death of the offender, or enforcement of a *ḥadd*—are mandatory or unilateral and lack the contractual nature of conciliation. Therefore, conciliation in *qiṣāṣ* is not only substantively distinct from pardon and other categories of *qiṣāṣ* abolition, but also serves as a dynamic and flexible mechanism for reducing social tension and adjusting punishment in harmony with justice and social welfare.

3.1. Opinions of Imami and Sunni Jurists on the Scope and Effects of Conciliation in Qisas

Conciliation in *qiṣāṣ* holds a firm position among Imami jurists. Based on Qur’anic verses and narrations, its realization is considered legitimate and commendable. Verses such as “The believers are but brothers, so make peace between your brothers” (Qur’an 49:10) and “The recompense of an evil is an evil like it, but whoever forgives and reconciles, his reward lies with God” (Qur’an 42:40) clearly emphasize reconciliation and forgiveness, extending these principles to Islamic criminal law. Classical jurisprudential sources affirm this understanding (Muḥaqqiq al-Ḥillī, 1969). Numerous narrations—such as the Prophet’s statement: “Whoever commits intentional murder is handed over to the heirs of the victim; if they wish, they may execute him, and if they wish, they may accept compensation”—demonstrate that the heirs of the victim have the discretion to choose between *qiṣāṣ*, *diyyah*, or conciliation.

Imami jurists therefore maintain that conciliation in *qiṣāṣ* is the right of the heirs and permissible, provided both parties consent and no unlawful condition is created. Sunni jurists likewise recognize conciliation in *qiṣāṣ* as lawful and legitimate. Prophetic traditions such as “Reconciliation is permissible among Muslims except a reconciliation that renders unlawful what

is lawful or lawful what is unlawful” support this principle (Al-Hurr al-'Āmilī, 1991). Sunni scholars affirm that conciliation in *qishās* reduces violence, strengthens social relations, and actualizes principles of forgiveness and reform.

Both Imami and Sunni jurists agree on the effects of conciliation in *qishās*. In Imami jurisprudence, conciliation results in the annulment of the right to *qishās* and its replacement with *diyyah* or another agreed compensation, contingent upon the consent of both parties. Sunni jurists similarly hold that conciliation halts the enforcement of *qishās* and legitimizes its substitution with *diyyah* or other agreements. Both schools emphasize that conciliation must be based on mutual consent, conform to Sharī'ah principles, and aim to restore social harmony, reduce tensions arising from homicide, and actualize restorative justice. Thus, conciliation in *qishās* serves both as a mechanism for mitigating violence and as a means for achieving ethical, social, and penal justice.

4. Examination of the Jurisprudential Rules Governing Conciliation in Qisas

In this section, the jurisprudential rules governing conciliation in *qishās* are examined in order to clarify that Islamic jurisprudence, while recognizing *qishās* as the primary right of the heirs of the victim, has also opened the way to more peace-oriented and less harmful mechanisms. In the first subsection, the “no-harm and no-harassment” rule (*lā ḍarar wa lā ḍirār*) is analyzed as a rational and Sharī'ah-based foundation for preferring conciliation over the implementation of *qishās*, since this rule prevents the infliction of extensive harm and loss on society and families. In the second subsection, the “destruction (itlāf)” rule and its impact on determining liability and the responsibility of the offender are analyzed in light of new findings in human and medical sciences, in order to show that compensation can serve as a legitimate and effective substitute for *qishās*. In the third subsection, the “causation (tasabbub)” rule and the role of genetic and environmental factors in attributing the crime and determining the degree of the offender’s responsibility are examined, so that the extent of the influence of these factors in mitigating or converting punishment can be clarified from a jurisprudential perspective.

4.1. The No-Harm and No-Harassment Rule: A Basis for Replacing Qisas with Less Harmful Mechanisms

The “no-harm and no-harassment” rule (*qā'idat lā ḍarar wa lā ḍirār*) is one of the foundational principles of Islamic jurisprudence. It is grounded in Qur'anic verses, reliable narrations, and rational arguments, and forms the basis of many reform-oriented and social rulings in Islam. The Qur'an explicitly negates harm and injury among people in various contexts (Alishahi Qal'eh Jouqi & Tā'i, 2022). For example, in verse 231 of Sūrat al-Baqarah it states: “And do not retain them [your divorced wives] to harm them so that you transgress,” thereby prohibiting men from keeping divorced women with the intention of causing harm and suffering, since Islam does not permit anyone to inflict unjust harm on another. Likewise, verse 12 of Sūrat al-Nisā' states: “After any bequest he [or she] may have made or debt, without causing harm,” which emphasizes the need to avoid harming heirs through manipulative bequests or fabricated debts. These two verses clearly show that the Islamic legal system seeks to establish justice and prevent any unjust harm among individuals.

Prophetic narrations further reinforce this meaning; among them is the well-known report, “There is no harm and no harassment in Islam,” which, as a general principle, negates any ruling or conduct that would result in unjust harm to others. Of course, this statement does not imply that no harm exists in the external world, but rather—as major jurists have explained—that the Lawgiver has removed from the domain of legislation any ruling that would impose harm on the obligated person or on others. Shaykh Anṣārī, in clarifying the purport of this rule, states that the import of “no harm” is the negation of harmful rulings; that is, any ruling issued by the Lawgiver which entails harm to the person themselves, to others, or to their property is, by virtue of the *lā ḍarar* rule, removed from the sphere of legislation (Al-Anṣārī, 1986). Thus, by eliminating harmful rulings, Islam provides the groundwork for replacing them with more just and humane methods of dispute resolution.

On this basis, the *lā ḍarar* rule can serve as a solid jurisprudential foundation for replacing *qishās* with less harmful mechanisms such as conciliation and the payment of *diyyah*. Although *qishās* is recognized in the Qur'an as the primary right of the heirs of the victim, the underlying rationale for its legislation is justice and deterrence, not vengeance. When the implementation of *qishās* results in severe individual or social harm—such as the escalation of enmity between families or the loss of an opportunity for the offender’s reform and return to a righteous path—the *lā ḍarar* rule calls for refraining from *qishās* and opting for conciliation and financial compensation instead. Accordingly, this rule plays an important role not only in the

domain of transactional jurisprudence but also in criminal law, moderating the application of rulings and safeguarding the public interest of society.

4.2. *The Itlāf Rule and Its Analysis in Determining Liability and the Offender's Responsibility in Light of New Sciences*

In Imami jurisprudence, unlike what is found in modern legal systems, there is no single general doctrine labeled “strict liability” in a comprehensive and unified form. Instead, jurists speak of a set of specific headings under the title “causes of liability” or “grounds of liability.” According to the explanation of major jurists, these headings include *itlāf* (destruction), liability of possession (*damān al-yad*), deception (*ghurūr*), liability for goods taken for trial use, liability for property received under a void contract, *istīfā'* (benefit taken), and transgression or negligence, each of which is examined separately as an independent source of liability (Mūsawī Bujnūrdī, 1998). This analytical distinction reflects a subject-focused approach in Imami jurisprudence, where each cause of damage is studied independently in determining liability.

Among these causes, the *itlāf* rule occupies a central position, as it stipulates that whoever destroys another's property—whether directly or by causation—is liable. This rule is one of the clearest jurisprudential rules, supported by rational practice and the conduct of reasonable people, and therefore its scope extends from the destruction of physical objects to the loss of benefits and profits (Ḥusaynī Marāghī, 1996).

From a jurisprudential standpoint, *itlāf* is generally divided into two types: direct destruction (*itlāf bil-mubāsharah*), in which the agent directly causes the loss, and destruction by causation (*itlāf bil-tasabbub*), in which the agent indirectly brings about the damage. Jurists often consider causation to be a branch of *itlāf* rather than an independent source, because in both cases the criterion for liability is the customary attribution of the loss to the agent. On this basis, if an individual's conduct is customarily regarded as the cause of damage or destruction, liability is established even if there is no direct physical act. For this reason, some other headings, such as *ghurūr* (deception), can also be traced back to *itlāf*, because the deceiver, by misleading another, causes harm and is considered—due to the strength of their causal role—more responsible than the direct actor in the chain of causation. Nevertheless, some jurists treat *ghurūr* as an independent source of liability that can arise outside the scope of *itlāf* (Mūsawī Bujnūrdī, 1998).

In the light of modern sciences, the *itlāf* rule can be revisited in the domain of the offender's responsibility as well. Findings in medicine, psychology, and genetics show that criminal behavior may sometimes result from a combination of internal and external factors, such as genetic disorders, environmental conditions, or neurological injuries that influence the formation of will and behavior (Morse, 2011; Shahzad et al., 2025). In such cases, determining the degree to which the crime is attributable to the offender requires precise analysis of the causal relationship among these factors. If it can be demonstrated that the offender's will was not fully sovereign over their act, or that environmental conditions played a decisive role in the occurrence of the crime, the *itlāf* rule, in the context of determining liability, can support mitigation of responsibility or the substitution of punishments such as *qiṣāṣ* with *diyyah* or other compensatory mechanisms. In this way, while preserving its traditional foundations, jurisprudence reveals its capacity to adapt to new scientific data and to realize criminal justice in a more humane and rational form.

4.3. *The Tasabbub Rule: The Role of Genetic and Environmental Factors in Attributing Crime and Determining the Degree of Responsibility*

The *tasabbub* (causation) rule is one of the fundamental principles of Islamic jurisprudence in the field of liability and responsibility. According to this rule, whenever a person indirectly causes damage or a criminal act, and the cause is customarily regarded as stronger than the direct actor, they are held liable. Jurists treat *tasabbub* as a subdivision of *itlāf*, applying it to situations where a person's conduct, by creating certain preconditions or circumstances, results in harm or a crime being realized (Ṭabāṭabā'ī Luṭfī & Rowshani, 2011). The key criterion for liability under *tasabbub* is the customary attribution of the harmful outcome to the agent, not merely the existence of a material link between the act and the result. Thus, whenever it is customarily said that a given person was the cause of the loss or the crime, liability will be imposed on them, even if the direct actor is someone else. This rule both prevents individuals from escaping responsibility for their indirect actions and allows for differentiating among various degrees of responsibility according to the strength of causation.

In the light of contemporary sciences—particularly genetics, psychiatry, and behavioral sciences—the issue of causation in crimes has become more complex. Scientific findings indicate that certain genetic features, such as neurological disorders or chromosomal abnormalities, may play a role in the emergence of aggressive behaviors or tendencies toward violence (Yahaya et al., 2021). On the other hand, environmental factors such as poverty, domestic violence, malnutrition, or inadequate upbringing can also function as significant causes in shaping criminal behavior (Mathungeni, 2024). In such contexts, determining the predominant cause and the scope of individual responsibility requires careful analysis of the interplay between biological and volitional factors. Although genetic or environmental predispositions can constrain human will to some extent, Islamic jurisprudence is fundamentally grounded in responsibility based on choice and free will, unless it can be demonstrably shown that this freedom has been effectively nullified.

Accordingly, the *tasabbub* rule can, in light of new sciences, become an effective instrument for more refined assessment of criminal responsibility. Islamic jurisprudence, through its recognition of the concept of the “stronger cause,” possesses the flexibility to calibrate the degree of the offender’s responsibility. That is, whenever it is established that natural or environmental factors have played a dominant role in the occurrence of a crime and that the offender’s will has been weakened under their influence, it becomes possible to mitigate their responsibility or to convert *qisās* into *diyyah* or reform-oriented penalties. This renewed interpretation of the *tasabbub* rule is not only in harmony with jurisprudential foundations but also aligns with restorative justice and Islam’s humane approach to tailoring punishment to the offender’s actual degree of fault.

5. Modern Mechanisms of Conciliation in Qisas Crimes: Designing New Conciliation Models in the Light of Fiqh and Technology

In this section, modern mechanisms of conciliation in *qisās* crimes are examined to demonstrate that Islamic jurisprudence, with its dynamic and flexible capacities, can serve as a foundation for new models of restorative justice in light of scientific and technological advances. In the first subsection, the model of “treatment instead of *qisās*” is introduced as an approach grounded in the spirit of mercy and reform in Islamic Shari‘ah, aiming to replace purely retributive punishments with treatment-oriented sanctions. In the second subsection, the role of modern medical technologies—including neuroscience, psychotherapy, and rehabilitative interventions—in reforming offenders and returning them to a healthy life trajectory is discussed, so that conciliation is viewed not merely as pardon but as a process of restoring both the individual and society. In the third subsection, the integration of genetic findings with jurisprudential rules such as *tasabbub* and *itlāf* is highlighted, with a view to providing a more precise understanding of internal and external factors contributing to crime, thereby creating the conditions for implementing restorative justice and making fairer decisions in the process of conciliation and the apportionment of responsibility.

5.1. The “Treatment Instead of Qisas” Model within the Framework of Islamic Fiqh

The “treatment instead of *qisās*” model is a novel approach in Islamic criminal jurisprudence that, relying on principles such as reform, benevolence (*ihsān*), forgiveness, and the *lā ḍarar* rule, seeks to replace purely retributive punishments with deterrent and rehabilitative sanctions. In Qur’anic and hadith sources, *qisās* is recognized as a right of the victim’s heirs, yet Islam simultaneously considers pardon and forgiveness superior and a cause of divine reward: “But whoever overlooks from his brother anything, then there should be a suitable follow-up and payment to him with good conduct” (Qur’an 2:178). This verse indicates that pardon and financial compensation (*diyyah*) can replace *qisās* and open the way to the restoration of human relationships. Imami jurists, drawing on this foundation, have regarded conciliation as one of the most important legal institutions in the chapter of *qisās*, which, while preserving the right of the victim’s heirs, reinforces the spirit of justice and mercy in society. In light of this basis, the idea of “treatment instead of *qisās*” can, relying on the reform-oriented aims of the Shari‘ah, be interpreted as a new instance of conciliation in which, rather than eliminating the offender, psychological and moral rehabilitation is prioritized.

From the perspective of contemporary criminal sciences and criminology as well, purely punitive sanctions have proven ineffective in reducing crime and rehabilitating offenders. Research in criminal psychology has shown that many serious offenses—particularly impulsive and emotional homicides—are rooted in mental disorders, depression, substance abuse, or

childhood trauma (Bonta & Andrews, 2016). In such cases, treatment and rehabilitation, instead of *qiṣāṣ*, can prevent reoffending and at the same time strengthen the sense of justice for the victim's family through the offender's social reintegration and moral reparation. For example, in some Islamic systems such as Malaysia and Indonesia, reconciliation and reform councils are convened between the families of the killer and the victim so that, alongside the payment of *diyyah*, the offender is placed under structured therapeutic and educational programs (Peletz, 2023). This pattern can be seen as consistent with the Islamic teachings on "reconciliation between people (*iṣlāh dhāt al-bayn*)" and "sincere repentance (*tawbah naṣūh*)".

Within the framework of Islamic fiqh, this model can be inferred from principles such as *lā ḍarar wa lā ḍirār* (no harm and no harassment), the rule of *naḥī al-sabīl* (denial of unjust domination), and the rule of benevolence (*qā'idat al-iḥsān*). According to the *lā ḍarar* rule, any ruling that entails severe individual or social harm is devoid of legal validity (Al-Anṣārī, 1986). The implementation of *qiṣāṣ* in certain circumstances can have irreparable familial and social consequences, including the intensification of hostility, cycles of revenge, and the disintegration of families. Substituting *qiṣāṣ* with treatment, while observing the higher objectives of the Shari'ah in preserving life and human dignity, is also compatible with the rule of benevolence, which emphasizes helpful and beneficial conduct. Consequently, "treatment instead of *qiṣāṣ*" does not mean suspending divine limits, but rather realizing their ultimate purpose—that is, reforming the human being and establishing restorative justice. This approach creates a link between classical fiqh and modern science and can offer an Islamic model of restorative justice for the contemporary world.

5.2. The Use of Medical Technologies for the Reform and Rehabilitation of Offenders

The use of medical technologies for the reform and rehabilitation of offenders is an innovative concept in the field of Islamic criminal law and restorative justice. In light of advances in medical science, psychiatry, and neuroscience, it can be reconciled with Islamic fiqh principles concerning reform and repentance. Islamic jurisprudence has always emphasized the reform of the offender and their return to a righteous path in life; as the Qur'an states: "Indeed, God loves those who are constantly repentant and loves those who purify themselves" (Qur'an 2:222), and in another verse: "But whoever repents after his wrongdoing and reforms, indeed, God will turn to him in forgiveness" (Qur'an 5:39). These verses clearly show that the ultimate goal of punishment in Islam is the reform of the individual and their reintegration into society, not mere retaliation or elimination. On this basis, modern medical technologies that enable the treatment of behavioral disorders, anger control, correction of neurological structures in the brain, or reconstruction of the offender's personality can, within the purposes of the Shari'ah and rational principles, be used as legitimate tools for achieving justice and individual reform.

Recent advances in neuroscience, forensic psychiatry, and behavioral genetics have shown that many violent behaviors, including homicide, are rooted in neurological abnormalities, hormonal imbalances, or brain injuries (Trinh et al., 2024). For example, in some offenders who suffer damage to the prefrontal cortex, moral decision-making and emotional regulation are impaired, increasing the likelihood of aggressive behavior (Shahzad et al., 2025). In such cases, therapeutic intervention through medication, specialized counseling, or even non-invasive brain stimulation (TMS) can lead to more effective rehabilitation. From a fiqh perspective, if such treatment results in behavioral reform and prevents recidivism, it may be regarded as an instance of *iḥsān* (benevolence) and *iṣlāh* (reform), since the ultimate aim is to realize justice and avert future harms.

A review of fiqh sources, together with the indications cited in this study, suggests that from a maqāṣid-based (objectives-oriented) perspective, the use of medical technologies in the rehabilitation of offenders is compatible with the five overarching purposes of the Shari'ah (preservation of religion, life, intellect, lineage, and property). Implementing *qiṣāṣ* in all cases, without considering the psychological and biological condition of the offender, may sometimes conflict with the objective of preserving life, because in certain situations treatment both prevents reoffending and saves a human life from destruction. Within this framework, recourse can be made to the capacities of conciliation and pardon alongside therapeutic technologies, so that the victim's heirs, upon observing a genuine change in the offender's behavior and mental health, may be encouraged to forgive and accept *diyyah*. The experience of rehabilitation programs based on psychotherapy in countries such as Malaysia and Morocco—where the treatment of addicts and violent offenders is carried out through the cooperation of religious scholars and psychiatrists—shows that integrating medical science and fiqh foundations can be an effective path toward realizing restorative justice and reducing violence in Islamic societies.

5.3. Integrating Genetic Knowledge with Jurisprudential Rules to Achieve Restorative Justice

Integrating genetic knowledge with jurisprudential rules to achieve restorative justice is a novel approach that allows for a more precise analysis of the offender's responsibility and for determining punishment in proportion to the individual's actual degree of fault. Genetic findings have shown that certain behavioral tendencies, including violence or aggression, may be influenced by genetic and environmental factors, which in turn affect the extent of the individual's freedom and will in committing the offense (Wikström & Kroneberg, 2022). In Islamic jurisprudence, rules such as *tasabbub* (causation) and *itlāf* (destruction) are used to determine the offender's liability and responsibility; according to these rules, whenever a person's act causes harm or a crime, they are held responsible, even if the cause is indirect. Integrating genetic knowledge with these rules makes it possible to assess scientifically the role of internal and external factors in the occurrence of crime and to determine the offender's actual responsibility, so that punishment is calibrated to the degree of fault.

From the perspective of restorative justice, this integration can provide a foundation for the reform and rehabilitation of the offender. Instead of focusing solely on punishment and retaliation, genetic knowledge helps us design treatment and rehabilitation programs grounded in a precise understanding of behavioral causes—programs that not only prevent reoffending but also enhance the individual's capacity to return to society. For example, evidence indicates that individuals with certain genetic abnormalities in their nervous or hormonal systems can, in supportive and therapeutic conditions, control their aggressive behaviors and reintegrate into social life. Such an approach aligns with fiqh-oriented aims of reconciling relations and benefitting society, and it facilitates pardon and conciliation between the victim's heirs and the offender.

Beyond its therapeutic dimension, integrating genetics and fiqh makes it possible to adopt fairer, evidence-based judicial decisions. When the degree of influence of genetic and environmental factors on criminal behavior is known, the judge can, instead of enforcing *qiṣās* in an absolute manner, resort to a combination of *diyyah*, treatment, and reform programs when determining the type and severity of punishment. This method, while preserving jurisprudential principles, realizes restorative justice as the ultimate aim of the Islamic criminal justice system and demonstrates that classical fiqh has the capacity to interact constructively with modern scientific findings so as to safeguard human rights and prevent future crimes and harms.

Although, despite the high potential of modern conciliation mechanisms in *qiṣās* cases—mechanisms designed on the basis of medical technologies and genetic knowledge—multiple jurisprudential and legal challenges arise. First, accepting these mechanisms requires a precise delineation of the boundaries of responsibility and attribution of crime based on scientific analysis; for example, if genetic examinations reveal that a person has a tendency toward violence due to a neurological disorder or a particular genetic combination, determining the extent of responsibility and the proportionality of punishment to their actual fault requires clear fiqh rules. This issue may provoke concerns on the part of the victim's heirs and wider society, who may feel that their right to *qiṣās* or the implementation of justice is being undermined. In addition, the use of medical and genetic technologies in the rehabilitation of offenders faces questions regarding the scientific validity of data, the possibility of misuse, and the limited availability of advanced equipment in some societies. In a hypothetical case, for example, where a murderer with prefrontal lobe impairment undergoes pharmacological treatment and brain stimulation, if the treatment is incomplete or its long-term effects cannot be predicted, the victim's heirs may refuse conciliation and society may doubt the legitimacy of the judicial decision. From a fiqh perspective, these challenges necessitate a careful re-examination of rules such as *tasabbub*, *itlāf*, and *lā ḍarar* and the design of enforceable frameworks for conciliation, so that both the rights of the victim's heirs and the reformative and restorative aims of justice are preserved.

Nevertheless, the jurisprudential and legal analyses in this study have shown that although *qiṣās* is one of the pillars of criminal justice in Islamic law, the spirit governing the Shari'ah is grounded in mercy, reform, and the preservation of human dignity. Findings derived from the analysis of jurisprudential sources, scholarly opinions, and recent genetic studies indicate that a rational coexistence between "retributive justice" and "restorative justice" can be established in the light of modern biotechnologies. Rules such as *lā ḍarar*, *tasabbub*, *itlāf*, and the principle of justice, as jurisprudential foundations, have the capacity to direct the implementation of *qiṣās*—in cases where criminal behavior arises from treatable genetic, environmental, or psychological factors—toward conciliation and the substitution of reform-oriented sanctions. According to these findings, conciliation in *qiṣās* is not only consistent with Shari'ah-based justice but can also function as an instrument for realizing human justice in the technological age, playing an effective role in reducing violence, enhancing social awareness, and rationalizing the Islamic criminal justice system.

6. Conclusion

The institution of *qīṣāṣ*, from the earliest formation of Islamic civilization until today, has held a distinguished position within the Islamic criminal justice system as one of the pillars of justice and a guarantor of social security. However, scientific developments—particularly in the fields of medicine, genetics, and neuroscience—have introduced a renewed perspective on the nature of criminal responsibility and the potential for offender rehabilitation. The findings of this study indicate that, in light of these advancements, it is possible to articulate a rational and dynamic interpretation of *qīṣāṣ* that preserves its Sharī‘ah-based framework while remaining compatible with the scientific and ethical requirements of the contemporary world.

In light of the *lā ḍarar* rule, the implementation of *qīṣāṣ*—in situations where it generates broader social or psychological harms outweighing its intended criminal justice benefits—may be oriented toward conciliation or alternative sanctions. The *tasabbub* rule, considering the potential influence of genetic or environmental factors on criminal behavior, renders the responsibility of the offender adjustable, creating room for reform and treatment. Meanwhile, the *itlāf* rule remains the foundation of liability, but with the aid of modern technologies, the form of liability can be transformed from physical punishment to financial compensation or behavioral rehabilitation. Additionally, the principle of justice in the emerging Islamic civilization requires that justice be understood not only in retribution but also in reform and guiding the human being back to their divinely endowed nature.

This study demonstrates that, by drawing upon the capacities of Islamic jurisprudence, a system of conciliation in *qīṣāṣ* may be designed in which decisions concerning whether to implement *qīṣāṣ* or substitute it with alternative measures are based on precise knowledge of the motives, genetic and psychological preconditions of the crime, and the possibility of treatment. This perspective is not only consistent with the Qur’anic principle “*But whoever overlooks [a part of the right] from his brother...*,” but also overlaps with contemporary human rights approaches and restorative justice frameworks.

In reality, justice in the emerging Islamic civilization is grounded in understanding, reform, and prevention, and *qīṣāṣ* must be redefined within this very framework. If, in light of genetic and medical technologies, the cause of criminal behavior can be identified and treated, then implementing *qīṣāṣ* becomes not only unnecessary but contrary to the primary purpose of the Sharī‘ah, which is human reform. Thus, conciliation in *qīṣāṣ* can serve as a bridge between science and jurisprudence, between divine justice and human rights, and between law and ethics.

Accordingly, it may be said that the institution of *qīṣāṣ* in the era of biotechnological advancements requires a jurisprudential re-examination through which criminal justice is elevated from the level of retribution to the level of reform and treatment. Within this perspective, conciliation in *qīṣāṣ* is not a sign of weakness in applying justice but rather a manifestation of the intellectual maturity of Islamic jurisprudence in confronting the challenges of the modern world—a perspective that seeks justice not in blood, but in life and the restoration of the human being.

Ethical Considerations

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

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Conflict of Interest

The authors report no conflict of interest.

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