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Jurisprudential and Legal Analysis of Organ Donation by Death Row Inmates

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1. Round 1

1.1. Reviewer 1

Reviewer:

The phrase, "Despite the importance of the subject, no independent discussion has been observed in the existing authoritative jurisprudential and legal sources," is problematic. Some works in Islamic jurisprudence and human rights law address similar issues. Cite specific sources to support or qualify this claim.

The Quranic reference, "If you punish, then punish with the equivalent of that with which you were harmed" (Quran, 16:126), should be contextualized with classical and contemporary legal interpretations. Does this verse imply equivalence in execution methods, or is it a broader ethical principle?

The statement, "However, it seems unlikely that the sole purpose of qisas is to provide emotional satisfaction to the victim's heirs," introduces an argument without fully developing it. Provide additional reasoning or evidence supporting why qisas is not primarily about emotional satisfaction.

The argument that "jurists emphasize inflicting the least amount of suffering on the criminal during the implementation of qisas" requires more jurisprudential sources. Cite specific Islamic legal scholars who have advocated this perspective.

The legal discussion on Article 263 of the Islamic Penal Code is useful, but the implications of "Qisas using a dull or non-sharp instrument that causes undue suffering to the offender is prohibited" should be examined further in the context of organ donation. Is organ removal considered undue suffering?

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The discussion on qisas (retribution) does not establish a clear connection to organ donation. The transition from defining qisas to discussing execution methods should be clarified, explicitly linking the topic to the legal feasibility of organ donation.

The sentence, "To achieve this objective, we will first analyze the linguistic meaning of the term 'qisas' and its cause, and then we will address the critical issue of whether the method of execution in the punishment of qisas for life is relevant," lacks clarity in research direction. Clearly state the research questions guiding the study.

The discussion of equivalence in punishment could benefit from integrating more comparative legal perspectives. Jurisdictions outside Islamic law have debated execution ethics in relation to organ donation—referencing these would add depth.

The claim, "Religious inquiries made to some contemporary jurists suggest that qisas through organ donation has been accepted," is vague. Which scholars have supported this view? Provide specific fatwas or legal opinions.

The response from jurists regarding qisas through organ donation states that "donating an organ that leads to the death of the condemned is only permissible with the consent of the victim's guardians." However, the article does not clarify whether this condition aligns with broader Islamic legal principles. Provide further discussion.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.