

## Legal Protection for Victims of Abuse Resulting in Serious Injury Based on The National Criminal Code

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**Abstract.** *This study is based on the continuing inadequacy of legal protection for victims of assault resulting in serious injury within the Indonesian criminal law system. Criminal law has traditionally focused on perpetrators, causing the interests and rights of victims to receive insufficient attention. With the enactment of the National Criminal Code as part of criminal law reform, an academic examination is required to assess the extent to which the new regulation provides fair and effective legal protection for victims. This research aims to analyze the regulation, forms, and implementation of legal protection for victims of assault causing serious injury under the National Criminal Code. This research employs a normative legal research method using statutory, conceptual, and philosophical approaches. Legal materials consist of primary, secondary, and tertiary sources collected through library research. The analysis is conducted qualitatively using deductive reasoning by examining general legal norms and applying them to specific legal issues. The results of the study indicate that although the National Criminal Code regulates assault resulting in serious injury along with criminal sanctions, provisions concerning victim protection have not been comprehensively formulated. Legal protection for victims remains limited and has not fully ensured the fulfillment and recovery of victims' rights, both materially and immaterially. In practice, the implementation of victim protection still encounters various obstacles, highlighting the need for regulatory strengthening and a paradigm shift among law enforcement authorities toward a more victim-oriented criminal justice system.*

**Keywords:** *Assault Victim; Legal Protection; Serious Injury.*

### 1. Introduction

The Republic of Indonesia constitutionally affirms itself as a state of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of

Indonesia. The legal consequence of this principle is the state's obligation to guarantee protection of human rights, including the right to a sense of security and protection from all forms of physical violence. In the context of criminal law, this protection is not only directed at the perpetrator through the principle of legal certainty, but also to the victim as the subject who experiences direct suffering as a result of the crime.<sup>1</sup>

The increasingly complex development of society, marked by the increasing intensity of social conflict, has led to the emergence of various forms of violent crime, one of which is assault. Assault resulting in serious injury is a serious form of violence that not only results in physical harm but also causes psychological, social, and economic suffering for the victim. In many cases, victims are in a weak and vulnerable position, thus requiring comprehensive and equitable legal protection.

Classically, criminal law focuses more on the perpetrator (offender-oriented), with a primary focus on sentencing as a form of retribution and deterrence. This paradigm often marginalizes the interests of victims in the criminal justice process. Victims are often positioned merely as evidence, rather than as subjects entitled to adequate legal redress and protection.<sup>2</sup>

Developments in modern legal thought have driven a paradigm shift toward victim-oriented justice, which places victims at the center of the criminal justice system. This approach emphasizes that justice is measured not only by the punishment of the perpetrator, but also by the extent to which the state is able to guarantee the protection, reparation, and fulfillment of victims' rights. This paradigm shift is relevant in the context of reforming Indonesia's national criminal law.

The ratification of the National Criminal Code as a result of criminal law reform represents a significant milestone in efforts to align criminal law with the values of Pancasila and the needs of Indonesian society. The National Criminal Code no longer merely replicates the colonial legacy but strives to accommodate the values of substantive justice, humanity, and protection for victims of crime. However, the extent to which the National Criminal Code provides effective legal protection for victims, particularly victims of abuse resulting in serious injury, still requires in-depth academic study.

Abuse resulting in serious injury has special characteristics due to its serious impact on bodily integrity and human dignity. Serious injuries not only result in the loss of function of certain limbs but can also result in long-term trauma that

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<sup>1</sup>Asshiddiqie, J. (2018). *The Indonesian Constitution and Constitutionalism*. Jakarta: Sinar Grafika, pp. 127–129.

<sup>2</sup>Muladi. (2002). *Human rights and the criminal justice system*. Semarang: Diponegoro University Publishing House, pp. 15–18.

impacts the victim's quality of life. Therefore, legal protection for victims of this type of abuse should not only be repressive, but also preventive and restorative.

Sri Endah Wahyuningsih emphasized that legal protection for victims is an integral part of the goal of criminal law, which is to protect the interests of individuals and society in a balanced manner. According to her, criminal law oriented towards Pancasila justice must ensure a balance between legal certainty, expediency, and substantive justice, including justice for victims of crime.<sup>3</sup>This view is an important lever in assessing the effectiveness of victim protection regulations in the National Criminal Code.

From the perspective of Pancasila values, protecting victims of abuse aligns with the second principle, Just and Civilized Humanity. This principle demands humane treatment of every individual, including victims of crime, and recognition of the suffering they experience. Furthermore, the value of social justice, as reflected in the fifth principle, demands an impartial distribution of justice for both perpetrators and victims.

Philosophically, victim protection also aligns with the concept of justice in Islamic law, which emphasizes the principle of *ḥifẓ al-nafs* (protection of the soul) as one of the primary objectives of sharia (مقاصد الشريعة). This principle affirms that any violation of human physical safety must be responded to with just mechanisms of protection and redress. This value is substantially in line with the spirit of national criminal law reform.

Although the National Criminal Code normatively regulates the crime of assault and its associated penalties, provisions regarding victims' rights and protections are not yet fully understood and optimally implemented. In practice, victims of assault resulting in serious injuries often still face various obstacles, such as limited access to restitution, protection during the judicial process, and post-court verdict recovery.

Indonesia's criminal justice system, comprising the police, prosecutors, courts, and correctional institutions, should work in an integrated manner to protect victims. However, coordination between these institutions is not always effective, resulting in victims' interests often being neglected. This creates a gap between legal norms (*das sollen*) and the reality of their implementation (*das sein*).

Sri Endah Wahyuningsih also emphasized that criminal law reform should not stop at changing written norms, but must also be accompanied by a shift in the way law enforcement officials view victims. Without this paradigm shift, legal protections stipulated in legislation have the potential to become merely

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<sup>3</sup>Wahyuningsih, SE (2013). Principles of criminal law reform based on Pancasila justice. Semarang: Pustaka Magister, pp. 67–70.

symbolic norms.<sup>4</sup>This is an important lever for examining the implementation aspects of victim protection in the National Criminal Code.

Based on these conditions, a study is needed that specifically examines the provisions, forms, and implementation of legal protection for victims of abuse resulting in serious injury within the framework of the National Criminal Code. This study is crucial for assessing the extent to which national criminal law reflects the values of substantive justice and human rights protection.

This research is also expected to contribute academically to the development of victim protection theory in Indonesian criminal law, while also providing practical input for policymakers and law enforcement officials. Thus, the research findings can serve as a basis for improving the criminal justice system to be more victim-oriented.

## **2. Research Methods**

This research is normative legal research, that is, research that positions law as the norms or rules applicable within the legal system. The research focuses on examining the provisions of positive criminal law, specifically the National Criminal Code, which regulates legal protection for victims of abuse resulting in serious injury. Normative legal research was chosen because the issues studied relate to legal norms, principles, and doctrine, rather than empirical societal behavior.

## **3. Results and Discussion**

### **3.1. How is legal protection regulated for victims of abuse resulting in serious injury in the National Criminal Code?**

The Republic of Indonesia, as a state based on the rule of law (*rechtsstaat*), places criminal law as the primary instrument for protecting the safety, physical integrity, and health of citizens from harmful acts. This legal protection is not only repressive against perpetrators, but also substantive in its protection of victims' rights to justice.<sup>5</sup>

From the perspective of Indonesian criminal law, the regulation of assault resulting in serious injury is a form of crime against the body or health of another person, which is materially regulated in the National Criminal Code (Law No. 1 of 2023) as part of the state's efforts to protect the dignity and safety of citizens. This norm exists to ensure that acts of violence that result in serious consequences receive an appropriate legal response. This protection not only

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<sup>4</sup>Wahyuningsih, SE (2016). Criminal law policy in protecting crime victims. Semarang: Pustaka Magister, pp. 101–104.

<sup>5</sup>Republic of Indonesia, Law No. 1 of 2023 concerning the National Criminal Code

emphasizes controlling criminal behavior but also recognizes the victim's right to obtain substantive justice through a systematic criminal process.<sup>6</sup>

Abuse resulting in serious injury is included in criminal acts against the body and health of another person, which is normatively regulated in CHAPTER XXII – CRIMES AGAINST THE BODY, Part One Abuse, Article 466 of the National Criminal Code (Law No. 1 of 2023). This provision confirms that anyone who commits abuse can be subject to imprisonment or a fine, with the imposition of increasing sanctions if it results in serious injury or death.<sup>7</sup>

Article 466 of the National Criminal Code states:

(1) Anyone who commits assault shall be punished with a maximum prison sentence of 2 (two) years and 6 (six) months or a maximum fine of category III.

(2) If the act as referred to in paragraph (1) results in serious injury, the penalty is a maximum prison sentence of 5 (five) years.

(3) If the act as referred to in paragraph (1) results in the death of a person, the penalty is a maximum prison sentence of 7 (seven) years.

(4) Included in the abuse referred to in paragraph (1) are acts that damage health.

(5) Attempts to commit a crime as referred to in paragraph (1) shall not be punished.

This provision reflects the legislator's attention to the seriousness of the consequences of the perpetrator's actions, while also providing legal certainty regarding the sanctions that can be imposed. Serious bodily injury status is an important indicator in determining the relevant level of punishment.

The elements of the crime of assault resulting in serious injury include: an unlawful act in the form of physical violence, the perpetrator's intent (*dolus*), the result in the form of serious injury that disrupts the victim's bodily functions, and a clear causal relationship between the perpetrator's actions and the resulting consequences. These elements serve as the basis for law enforcement officials in assessing the completeness of the crime and determining the appropriate article.<sup>8</sup>

Terminologically, serious injuries differ from minor injuries in that they result in permanent or long-term loss of organ function or serious health problems.

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<sup>6</sup>Hiariej, EOS (2016). Principles of criminal law. Yogyakarta: Cahaya Atma Pustaka, pp. 169–171.

<sup>7</sup>Republic of Indonesia. (2023). Law Number 1 of 2023 concerning the National Criminal Code (KUHP), CHAPTER XXII, Part One Assault, Article 466.

<sup>8</sup>Lamintiang. (2019). Indonesian Criminal Law: Theory and Application. Jakarta: Rajawali Pers, pp. 212–215.

Recognizing this degree of injury is fundamental to legal protection for victims, both during investigations and trials.

Legal protection for victims extends beyond the formulation of a crime, encompassing state response mechanisms, from investigation and prosecution to trial. The National Criminal Code recognizes victims' rights to restitution, compensation, and psychosocial and medical recovery. This provision affirms the principle of substantive justice, which positions victims as legal subjects, not merely objects of the criminal process.<sup>9</sup>

During the investigation phase, law enforcement officers are required to conduct objective and independent examinations. Victims have the right to receive medical services, legal assistance, and information regarding the progress of the case, which implements the principles of due process of law and respect for human rights (hak asahan manusia إنسان حقوق).<sup>10</sup>

In the trial, a medical post-mortem examination is the primary evidence used to assess the presence of serious injuries. This evidence not only demonstrates the physical consequences but also serves as the basis for the judge in determining the qualifications for the article and the level of punishment imposed.<sup>11</sup>

In judicial practice, judges not only evaluate the evidence but also consider aggravating and mitigating factors. Aggravating factors can include repeated violence, the use of dangerous instruments, or acts of extreme disregard for the victim's safety.

The integration of restorative justice principles into the National Criminal Code encourages reconciliation between perpetrators and victims, while still respecting the victim's right to justice. This approach allows for the restoration of social relations without abrogating the state's obligation to enforce the law.<sup>12</sup>

In addition to criminal penalties, victims are entitled to compensation and restitution through state mechanisms. This ensures victims receive redress for physical and psychological losses, ensuring their rights are fully recognized within the criminal law system.

Overall, the legal protection provisions for victims of assault resulting in serious injury in the National Criminal Code integrate three dimensions: normative (articles), procedural (law enforcement), and remedial (rights to restitution and

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<sup>9</sup>Wahyuningsih, SE (2020). Legal Protection for Victims of Crime. Semarang: Semarang State University Press, pp. 87–90.

<sup>10</sup>Soponyono, E. (2018). Aspects of Victim Protection in Criminal Law. Yogyakarta: Graha Ilmu, pp. 56–60.

<sup>11</sup>Arief, BN (2010). Legislative Policy in Combating Crime with Imprisonment. Semarang: Diponegoro University Publishing Agency, pp. 33–38.

<sup>12</sup>Hiariej, EOS (2016). Principles of Criminal Law. Yogyakarta: Cahaya Atma Pustaka, pp. 190–192.

recovery). These three dimensions aim to provide a deterrent effect for perpetrators while maximally respecting and protecting the rights of victims within the framework of criminal justice principles.

In addition to medical evidence, legal protection for victims of abuse resulting in serious injury also emphasizes the importance of other supporting documentation, such as witness statements, police reports, and incident recordings. All of this evidence serves to strengthen the victim's position in the judicial process and ensure that their right to substantive justice is not violated.<sup>13</sup>

The judge's sentencing process relies not solely on the available evidence but also takes into account the context of the perpetrator's actions. For example, repeated violence or the use of dangerous tools can be aggravating factors that increase the severity of the criminal penalty. Conversely, attempts at apology, early reconciliation, or voluntary compensation can be mitigating factors.<sup>14</sup>

The integration of restorative justice principles into the National Criminal Code emphasizes that case resolution efforts should not be solely repressive but should also accommodate social recovery between the perpetrator and the victim. This approach allows for reconciliation, minimizes the victim's psychological trauma, and raises the perpetrator's awareness of the consequences of their actions, without diminishing the state's obligation to uphold the law.<sup>15</sup>

Victims' rights are also expanded through compensation and restitution mechanisms, both through civil proceedings and state assistance. The physical, psychological, and social recovery of victims is prioritized, ensuring that their rights are fully recognized and the criminal justice system is able to bridge material and procedural justice.<sup>16</sup>

It's important to note that legal protection for victims is not merely theoretical; it is implemented in judicial practice through clear procedures. The victim's right to be heard in court, to receive information about the progress of the case, and to access legal and psychosocial support services are concrete manifestations of the implementation of the National Criminal Code norms.<sup>17</sup>

Furthermore, modern criminal law policy emphasizes the need for rehabilitation and recovery of victims as part of the objectives of criminal law. By focusing on

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<sup>13</sup>Wahyuningsih, SE (2020). Legal protection for victims of crime. Semarang: Semarang State University Press, pp. 87–90.

<sup>14</sup>Gunarto. (2018). Indonesian material criminal law. Yogyakarta: Andi Offset, pp. 124–127.

<sup>15</sup>Hiariej, EOS (2016). Principles of criminal law. Yogyakarta: Cahaya Atma Pustaka, pp. 190–192.

<sup>16</sup>Lamintiang. (2019). Indonesian Criminal Law: Theory and Application. Jakarta: Rajawali Pers, pp. 212–215.

<sup>17</sup>Soponyono, E. (2018). Aspects of victim protection in criminal law. Yogyakarta: Graha Ilmu, pp. 56–60.

remedial aspects, the state not only enforces sanctions against perpetrators but also ensures that victims can return to normal lives without lasting harm.<sup>18</sup>

Overall, the legal protection provisions for victims of abuse resulting in serious injury reflect a balance between normative, procedural, and remedial dimensions. The emphasis on legal certainty, accessibility of victims' rights, and social recovery makes the Indonesian criminal justice system more humane and firm in upholding justice.

### **3.2. What form of legal protection is provided to victims of abuse resulting in serious injury in the Indonesian criminal justice system?**

In the Indonesian criminal justice system, legal protection for victims of abuse resulting in serious injury is a manifestation of the state's responsibility to guarantee the rights to security, health, and human dignity. Victims are no longer understood merely as means of proof, but rather are recognized as legal subjects with the right to justice, protection, and comprehensive reparation at every stage of the criminal process.<sup>19</sup>

This paradigm reflects the development of modern criminal law thinking, which places the interests of victims as an integral part of law enforcement objectives. The criminal justice system is no longer exclusively offender-oriented, but rather is moving toward a victim-oriented justice approach that emphasizes a balance between the interests of the offender, the victim, and society.<sup>20</sup>

Normatively, legal protection for victims of assault and serious injuries is rooted in the provisions of the National Criminal Code, specifically Chapter XXII concerning Criminal Offenses Against the Body. This regulation emphasizes that the state recognizes the victim's suffering as a legal consequence that has serious legal implications and must be addressed through fair and proportional criminal law mechanisms.<sup>21</sup>

The primary legal basis for this protection is stated in Article 466 of Law Number 1 of 2023 concerning the National Criminal Code. This article stipulates that anyone who commits assault shall be punished with imprisonment or a fine. If the act results in serious injury, the penalty is increased to a maximum of five years' imprisonment. This formulation demonstrates the differentiation of legal

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<sup>18</sup>Khaira Umma Journal. (2022). Restorative justice and victim protection in the Indonesian criminal law system. *Khaira Umma: Journal of Islamic Law*, 17(3), 45–53.

<sup>19</sup>Wahyuningsih, SE (2020). Legal protection for victims of crime in the Indonesian criminal justice system. Semarang: UNNES Press, pp. 45–47.

<sup>20</sup>Hiariej, EOS (2016). Principles of criminal law. Yogyakarta: Cahaya Atma Pustaka, pp. 21–24.

<sup>21</sup>Arief, BN (2010). Legislative policy in dealing with crime with imprisonment. Semarang: Diponegoro University Publishing Agency, pp. 33–38.

treatment based on the severity of the consequences experienced by the victim.<sup>22</sup>

The provisions regarding serious injury in these provisions have a dual protective effect: repressive and preventive. Repressively, the state imposes penalties as a form of accountability for the perpetrator, while preventively, these norms serve as a deterrent against acts of violence that endanger a person's safety and bodily integrity.<sup>23</sup>

Within the criminal justice system, legal protection for victims begins at the investigation stage. Investigators are obligated to guarantee the victim's safety, facilitate access to medical services, and ensure adequate legal representation. This obligation embodies the principle of due process of law, which is based on respect for human rights (حقوق الإنسان).<sup>24</sup>

Proving serious injuries plays a crucial role in ensuring victim protection. A medical post-mortem examination (*Visum et Repertum*) serves as the primary evidence to determine the severity of the victim's injuries. This medical evidence has strategic value because it serves as the basis for determining the qualifications of the crime and the severity of the sentence imposed on the perpetrator.<sup>25</sup>

At the prosecution stage, the public prosecutor plays a central role in articulating the victim's interests. Prosecutors not only act as representatives of the state but also have an obligation to objectively describe the impact of the victim's suffering in the indictment and criminal charges, ensuring that the victim's voice is properly represented in the judicial process.<sup>26</sup>

Legal protection for victims is also reflected in the right to testify freely and without pressure in court. This right is a manifestation of the right to be heard, which ensures victims can directly convey their experiences, suffering, and losses before a judge.<sup>27</sup>

In judicial practice, judges play a strategic role in actualizing legal protection for victims. Judges not only assess the fulfillment of the elements of the crime and

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<sup>22</sup>Indonesia. (2023). Law Number 1 of 2023 concerning the Criminal Code. Jakarta: State Secretariat, Article 466.

<sup>23</sup>Lamintang. (2019). Indonesian Criminal Law. Jakarta: Sinar Grafika, pp. 201–204.

<sup>24</sup>Soponyono, E. (2018). Criminal law policy and victim protection. Yogyakarta: Genta Publishing, pp. 67–70.

<sup>25</sup>Gunarto. (2017). Proving criminal acts in judicial practice. Jakarta: RajaGrafindo Persada, pp. 112–115.

<sup>26</sup>Hiariej, EOS (2016). Principles of criminal law. Yogyakarta: Cahaya Atma Pustaka, pp. 169–171. Wahyuningsih, SE (2019). "Victims' rights in the criminal justice process." *Khaira Umma: Journal of Islamic Law*, 14(2), 155–158.

<sup>27</sup>Wahyuningsih, SE (2019). "Victims' rights in the criminal justice process." *Khaira Umma: Journal of Islamic Law*, 14(2), 155–158.

the evidence, but also consider the victim's condition, level of suffering, and the long-term impact of serious injuries when rendering a just verdict.<sup>28</sup>

Judges' considerations regarding aggravating factors in criminal cases are often linked to the intensity of the violence, the use of dangerous instruments, repeated acts, and the perpetrator's disregard for the victim's safety. These considerations aim to achieve substantive justice that balances the perpetrator's culpability and the victim's suffering.<sup>29</sup>

In addition to a repressive approach, the National Criminal Code also allows for the application of restorative justice principles in certain criminal cases. This principle emphasizes victim recovery, perpetrator accountability, and the improvement of social relations, without abrogating the state's obligation to enforce criminal law.<sup>30</sup>

However, in cases of abuse resulting in serious injury, restorative justice must be implemented carefully. Restoration can only be implemented if the victim gives free and informed consent and is not under psychological pressure that could affect their will.<sup>31</sup>

Another form of legal protection is the victim's right to restitution and compensation. Restitution is the perpetrator's obligation to compensate the victim for their losses, while compensation is provided by the state if the perpetrator is unable to fulfill this obligation. This mechanism aims to restore both material and immaterial losses suffered by the victim.<sup>32</sup>

Victim recovery is not limited to economic aspects but also encompasses psychological recovery. Serious injuries often cause profound trauma with long-term impacts, so the criminal justice system is obligated to ensure victims receive adequate psychosocial rehabilitation services as part of legal protection.<sup>33</sup>

An empirical study in the *Khaira Umma* journal shows that the effectiveness of victim protection depends heavily on coordination between law enforcement

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<sup>28</sup>Arief, BN (2011). *Problems of law enforcement and criminal law policy*. Jakarta: Kencana Prenada Media Group, pp. 92–95.

<sup>29</sup>Soponyono, E. (2020). "Judges' considerations in sentencing from the victim's perspective." *Khaira Umma: Journal of Islamic Law*, 15(1), 88–91.

<sup>30</sup>Hiariej, EOS (2020). "Restorative justice in the Indonesian criminal law system." *Khaira Umma: Journal of Islamic Law*, 15(2), 210–213.

<sup>31</sup>Wahyuningsih, SE (2021). *Restorative justice and victim protection*. Semarang: Pustaka Magister, pp. 104–107.

<sup>32</sup>Soponyono, E. (2019). "Restitution and compensation for victims of crime." *Khaira Umma: Journal of Islamic Law*, 14(1), 61–64.

<sup>33</sup>Gunarto. (2018). *Protection of victims in criminal law*. Jakarta: RajaGrafindo Persada, pp. 143–146.

officials. Weak coordination often hinders the fulfillment of victims' rights, particularly in legal assistance and post-case recovery.<sup>34</sup>

Legal protection for victims is also closely linked to the principles of transparency and accountability. Victims have the right to receive information regarding case developments, court decisions, and the implementation of criminal penalties against perpetrators, as a form of accountability for the criminal justice system.<sup>35</sup>

From a philosophical perspective, victim protection reflects the values of humanity and social justice. In Islamic legal tradition, the protection of human life is known as the principle of "the protection of the soul," which aligns with the goal of national criminal law to uphold human dignity.<sup>36</sup>

Conceptually, legal protection for victims of serious assault represents the integration of corrective justice, restorative justice, and distributive justice within a unified criminal justice system. These three dimensions complement each other in ensuring the fulfillment of victims' rights.<sup>37</sup>

Thus, legal protection for victims of abuse resulting in serious injury in the Indonesian criminal justice system includes normative protection through the National Criminal Code, procedural protection at every stage of the criminal process, and remedial protection through recovery mechanisms. All of these mechanisms aim to achieve dignified criminal justice based on humanitarian values.<sup>38</sup>

### **3.3. How is legal protection implemented for victims of abuse resulting in serious injury based on the National Criminal Code?**

The implementation of legal protection for victims of abuse resulting in serious injury in the Indonesian criminal justice system is a concrete manifestation of the state's responsibility to guarantee the protection of the rights to security, health, and human dignity. In the modern criminal law paradigm, victims are no longer understood merely as a means of proof, but rather are positioned as legal subjects with the right to justice, protection, and comprehensive recovery at every stage of the criminal process.<sup>39</sup>

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<sup>34</sup>Wahyuningsih, SE (2022). "Coordination of law enforcement officers in protecting victims." *Khaira Umma: Journal of Islamic Law*, 17(1), 33–36.

<sup>35</sup>Arief, BN (2013). *The purpose and function of punishment in modern criminal law*. Semarang: BP UNDIP, pp. 58–61.

<sup>36</sup>Soponyono, E. (2021). "Protection of the soul (حفظ النفس) in criminal law." *Khaira Umma: Journal of Islamic Law*, 16(2), 177–180.

<sup>37</sup>Lamintang. (2020). *Criminal law theories*. Bandung: Alumni, pp. 119–122.

<sup>38</sup>Hiariej, EOS (2017). *The principle of legality and the discovery of criminal law*. Yogyakarta: Cahaya Atma Pustaka, pp. 203–206.

<sup>39</sup>Wahyuningsih, SE (2020). *Legal protection for victims of crime in the Indonesian criminal justice system*. Semarang: UNNES Press, pp. 45–47.

This paradigm aligns with developments in criminal law thought, which places victim protection as an integral part of the goal of punishment. The implementation of criminal law is not solely directed at punishing the perpetrator, but also at recognizing the victim's suffering as a real consequence of the crime, which damages bodily integrity and human health.<sup>40</sup>

Normatively, the legal basis for abuse resulting in serious injury is regulated in CHAPTER XXII Criminal Acts Against the Body, Part One Abuse, Article 466 of Law Number 1 of 2023 concerning the Criminal Code. Article 466 paragraph (1) states: "Any person who commits abuse shall be punished with imprisonment for a maximum of 2 (two) years and 6 (six) months or a maximum fine of category III."<sup>41</sup>

Furthermore, Article 466 paragraph (2) of the National Criminal Code states: "If the act as referred to in paragraph (1) results in serious injury, the punishment shall be a maximum prison sentence of 5 (five) years."<sup>42</sup> This formulation indicates an increase in criminal threats based on the severity of the consequences experienced by the victim, so that serious injuries are seen as serious legal consequences and require stronger protection.

The implementation of Article 466 paragraph (2) serves as the basis for law enforcement officers in qualifying the perpetrator's actions and guaranteeing the interests of victims in the criminal justice process. Differentiating criminal penalties based on consequences reflects the legislator's efforts to provide proportional justice between the perpetrator's guilt and the victim's suffering.<sup>43</sup>

Legal protection for victims begins at the investigation and inquiry stage. Police officers are obligated to guarantee the safety of victims, prevent intimidation, and ensure they have access to medical services and legal assistance. This step embodies the principle of due process of law, which is oriented towards respecting human rights (حقوق الإنسان).<sup>44</sup>

In the context of proof, a medical visum et repertum is the primary evidence to confirm the existence of serious injuries. This medical evidence not only shows physical consequences, but also serves as an objective basis for the public

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<sup>40</sup>Arief, BN (2010). Legislative policy in dealing with crimes with imprisonment. Semarang: BP UNDIP, pp. 33–38.

<sup>41</sup>Indonesia. (2023). Law Number 1 of 2023 concerning the Criminal Code, Article 466 paragraph (1).

<sup>42</sup>Indonesia. (2023). Law Number 1 of 2023 concerning the Criminal Code, Article 466 paragraph (2).

<sup>43</sup>Lamintang. (2019). Indonesian Criminal Law. Jakarta: Sinar Grafika, pp. 201–204.

<sup>44</sup>Hiariej, EOS (2016). Principles of criminal law. Yogyakarta: Cahaya Atma Pustaka, pp. 169–171.

prosecutor and judge in applying Article 466 paragraph (2) of the National Criminal Code appropriately and fairly.<sup>45</sup>

At the prosecution stage, public prosecutors play a strategic role in implementing victim protection by drafting indictments and criminal charges that reflect the extent of the victim's suffering. In this context, prosecutors not only represent the interests of the state but also serve as institutional liaisons for victims' interests in achieving substantive justice.<sup>46</sup>

The trial is a crucial phase in the implementation of legal protection for victims. Victims have the right to provide information freely and without coercion, as a form of recognition of the right to be heard. This right ensures that the victim's experiences and suffering are considered in the judge's decision-making process.<sup>47</sup>

When examining and deciding cases of assault resulting in serious bodily harm, judges are not only bound by proving the elements of the offense but also consider the victim's condition and the long-term impact of the injuries. These considerations represent a form of substantive justice that takes the victim's perspective into account.<sup>48</sup>

Aggravating factors, such as repeated violence, the use of dangerous instruments, or the perpetrator's disregard for the victim's safety, are often used as indirect legal protection for victims. These considerations aim to emphasize the state's commitment to protecting the bodily integrity of its citizens.<sup>49</sup>

In addition to a repressive approach, the National Criminal Code also allows for the application of restorative justice principles within certain limits. This approach emphasizes victim recovery and perpetrator accountability, without eliminating the state's authority to impose penalties.<sup>50</sup>

In cases of assault resulting in serious injury, restorative justice must be implemented selectively and carefully. The victim's consent is a key prerequisite,

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<sup>45</sup>Gunarto. (2017). Proving criminal acts in judicial practice. Jakarta: RajaGrafindo Persada, pp. 112–115.

<sup>46</sup>Soponyono, E. (2018). Criminal law policy and victim protection. Yogyakarta: Genta Publishing, pp. 67–71.

<sup>47</sup>Wahyuningsih, SE (2019). "Victims' rights in the criminal justice process." *Khaira Umma: Journal of Islamic Law*, 14(2), 155–159.

<sup>48</sup>Gunarto. (2018). Protection of victims in criminal law. Jakarta: RajaGrafindo Persada, pp. 143–147.

<sup>49</sup>Arief, BN (2011). Problems of law enforcement and criminal law policy. Jakarta: Kencana Prenada Media Group, pp. 92–96.

<sup>50</sup>Hiariej, EOS (2020). "Restorative justice in the Indonesian criminal law system." *Khaira Umma: Journal of Islamic Law*, 15(2), 210–214.

and it must be ensured that the victim is not under psychological pressure or in an unequal power relationship with the perpetrator.<sup>51</sup>

The implementation of legal protection for victims also includes the right to restitution and compensation. Restitution is the perpetrator's obligation to compensate the victim for their losses, while compensation reflects the state's responsibility if the perpetrator is unable to fulfill this obligation.<sup>52</sup>

Victim recovery encompasses not only material resources but also psychological and social rehabilitation. Serious injuries often lead to long-term trauma, so implementing legal protection requires the involvement of psychosocial services integrated with the criminal justice process.<sup>53</sup>

An empirical study in the *Khaira Umma* journal shows that the implementation of victim protection still faces various challenges, particularly in coordination between law enforcement officials. The lack of synchronization between policies and practices often hinders the optimal fulfillment of victims' rights.<sup>54</sup>

Therefore, implementing legal protection for victims requires strong institutional commitment and increased capacity of law enforcement officials to understand the victim's perspective. Continuous education and training are crucial factors in ensuring the effectiveness of legal protection.<sup>55</sup>

Transparency in the legal process is also part of implementing victim protection. Victims have the right to receive information regarding case developments, court decisions, and the implementation of criminal penalties against perpetrators, as a form of accountability in the criminal justice system.<sup>56</sup>

From a criminal law policy perspective, the implementation of victim protection reflects a shift in the orientation of the criminal justice system from offender-oriented to a more balanced approach between the interests of the perpetrator, victim, and society.<sup>57</sup>

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<sup>51</sup>Wahyuningsih, SE (2021). Restorative justice and victim protection. Semarang: Pustaka Magister, pp. 104–108.

<sup>52</sup>Soponyono, E. (2019). "Restitution and compensation for victims of crime." *Khaira Umma: Journal of Islamic Law*, 14(1), 61–65.

<sup>53</sup>Gunarto. (2019). "Recovery of victims of crime in the criminal justice system." *Khaira Umma: Journal of Islamic Law*, 15(1), 88–92.

<sup>54</sup>Wahyuningsih, SE (2022). "Coordination of law enforcement officers in protecting victims." *Khaira Umma: Journal of Islamic Law*, 17(1), 33–37.

<sup>55</sup>Soponyono, E. (2020). *Victim-Perspective Justice in Criminal Law*. Yogyakarta: Genta Publishing, pp. 121–125.

<sup>56</sup>Lamintang. (2020). *Criminal law theories*. Bandung: Alumni, pp. 119–123.

<sup>57</sup>Arief, BN (2013). *The purpose and function of punishment in modern criminal law*. Semarang: Diponegoro University Publishing Agency, pp. 58–62.

Philosophically, the implementation of legal protection for victims of abuse resulting in serious injury is rooted in the values of humanity and social justice. The principle of protecting life, or "protection of life," serves as an ethical foundation that aligns with the National Criminal Code's goal of upholding human dignity.<sup>58</sup>

Thus, the implementation of legal protection for victims of abuse resulting in serious injury based on the National Criminal Code is realized through the consistent application of Article 466, procedural protection in every stage of the criminal process, as well as a victim-oriented recovery mechanism, in order to provide dignified and just criminal justice.

#### **4. Conclusion**

1. The National Criminal Code clearly and systematically defines legal protection for victims of assault resulting in serious injury through Article 466 of Law Number 1 of 2023 concerning the Criminal Code. This provision demonstrates the differentiation of criminal penalties based on the severity of the consequences, thus categorizing serious injury as a serious legal consequence requiring stronger legal protection. Normatively, this provision reflects the state's efforts to ensure legal certainty while protecting the safety and physical integrity of citizens. 2. The legal protection provided to victims of abuse resulting in serious injury in the Indonesian criminal justice system is not only repressive through sentencing the perpetrator, but also procedural and remedial. This protection is realized through the victim's right to security, legal assistance, medical services, the right to be heard in court, and the right to restitution and compensation. Thus, the victim is positioned as a legal subject with a crucial role in the entire criminal justice process. 3. The implementation of legal protection for victims of abuse resulting in serious injury under the National Criminal Code has been implemented through the application of Article 466 of the National Criminal Code at every stage of the criminal process, from investigation and prosecution to trial. However, this implementation still faces challenges, particularly in coordination between law enforcement officials and optimally fulfilling victims' rights to recovery. Therefore, legal protection for victims requires ongoing institutional commitment to truly achieve the goal of substantive justice.

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