

## **The Crime Victim Protection Act, 2075 (2018)**

Date of Authentication:

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**Act Number 22 of the year 2075**

### **An Act Made to Provide for the Protection of the Crime Victims**

#### **Preamble:**

Whereas, it is expedient to make necessary provisions on the protection of the rights and interests of the victims, by making provisions also for compensation to the victims for damage sustained as a result of an offence, and reducing adverse effects caused to the victims of crimes, for getting information related to the investigation and proceedings of the cases in which they have been victimized, for getting justice along with social rehabilitation and compensation pursuant to law, while ensuring the right of crime victims to justice conferred by the Constitution of Nepal, which remains as an integral part of the process of offender justice;

Now, therefore, be it enacted by the Federal Parliament.

#### **Chapter-1**

##### **Preliminary**

- 1. Short title and commencement:** (1) This Act may be cited as the "Crime Victim Protection Act, 2075 (2018)."  
(2) This Act shall commence immediately.
- 2. Definitions:** Unless the subject or the context otherwise requires, in this Act, -
  - (a) "Court" means a court that is authorized by the prevailing law to try and settle any offence, and this also includes such other judicial authority or body authorized by law to try and settle any specific type of case.
  - (b) "Offence" means an offender offence in which the government is plaintiff pursuant to law, and the victim has died or has to bear damage.
  - (c) "Offender" means a person who is convicted by the court of an offence.
  - (d) "Fund" means the Victim Relief Fund established pursuant to law.
  - (e) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.

- (f) "Victim of second grade" means a person who has not been involved in the offence that has been committed or is being committed against the victim of first grade but who has to bear damage because of being an eyewitness of such offence, and this expression also includes the guardian of the minor victim of first grade who has not been involved in the offence but who has to bear damage because of having information about, or being an eyewitness of, the offence, and any of the following persons who have to bear damage because of having knowledge as to the offence committed against the victim of first grade:
- (1) Guardian of the victim of first grade,
  - (2) Where the victim of first grade is a minor, and
  - (3) Where the person who has to bear such damage is not involved in the offence.
- (g) "Minor" means a person who has not attained the age of eighteen years.
- (h) "Victim of first grade" means a person who has died or has sustained damage as a direct result of an offence that has been committed against the victim, irrespective of whether the perpetrator does not have to bear criminal liability on the ground of his or her age, mental unsoundness, diplomatic immunity or position or whether the identity of the perpetrator remains untraced or whether charge has not been made against the perpetrator or whether the case related to the offence has been withdrawn or whether the sentence imposed on the offender is pardoned or whether the perpetrator has not been convicted of the offence or irrespective of the family relation of the perpetrator with the victim, and this phrase also includes a person who has not been involved in the offence but has died or sustained damage in any of the following circumstances:
- (1) While preventing the person who is committing the offence from committing it,
  - (2) While extending reasonable support and rescuing with the purpose of saving any person where an offence is being committed against such a person,
  - (3) While trying to arrest the person who is committing or has committed the offence or extending support to the competent authority in the course of arresting the suspect, accused or offender.

- (i) "Family victim" means the victim's mother, father, husband, wife living in the undivided family of the victim or other member of the undivided family dependent on the victim, who is not involved in the offence against the victim of first grade who has died as a direct result of the offence.
- (j) "Victim" means an individual who is the victim of first grade, victim of second grade and family victim.
- (k) "Victim Protection Suggestion Committee" means the Victim Protection Suggestion Committee referred to in Section 44.
- (l) "Guardian" means the guardian of a victim who remains as such or is appointed pursuant to the prevailing law.
- (m) "Damage" means the following damage caused to the victim as a direct result of the offence:
  - (1) Grievous hurt,
  - (2) Pregnancy occurred due to rape,
  - (3) Contracting any communicable disease recognized by medical sciences that causes adverse impact on the physical or mental health or **life** of the victim,
  - (4) Mental anxiety, emotional trauma or damage identified by the medical doctor,
  - (5) Destruction of physical, intellectual, sexual or reproductive capacity or serious damage caused to such capacity,
  - (6) Adverse impact caused on the social, cultural or family prestige of the victim due to rape,
  - (7) Psychological or psychiatric damage,  
**Explanation:** For the purposes of this sub-clause, the term "psychological or psychiatric damage" means the effect detected by the medical test, which is not recovered or reduced in short period and which inflicts negative effect upon the health of the victim.
  - (8) Financial or physical damage,
  - (9) Making physical beauty of the victim ugly.

**3. Not to be deemed victim:** (1) Notwithstanding anything contained elsewhere in this Act, where a person has sustained damage or died in the following circumstance, the person who has so sustained damage or died or his or her family member shall not be deemed to be a victim for the purposes of this Act:

- (a) While doing any act in the course of saving the body, life, property or chastity of his or her own or anyone else under the private defense pursuant to the prevailing law,
- (b) While doing any act by a security employee who has been deputed or deployed by the order of the competent authority in the course of performing his or her duties pursuant to the prevailing law,
- (c) While doing any act by the investigating authority having authority to investigate pursuant to the prevailing law, in the course of making investigation, subject to his or her jurisdiction,
- (d) Any act done in a situation where the criminal liability need be borne pursuant to the prevailing law,

Provided that even if the criminal liability of the perpetrator need not be borne as a result of the perpetrator's age, mental unsoundness, diplomatic immunity or immunity enjoyable on the basis of position, it shall be deemed, for the purposes of this Act, that such a person has committed the offence, and the concerned person shall be deemed to be a victim due to the offence.

(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall prevent the Government of Nepal from providing relief to a person who has sustained damage or died due to the circumstance set forth in that sub-section.

## Chapter-2

### **Rights and Duties of the Victims in Criminal Justice Process**

- 4. **Right to get fair treatment:** The victim shall have the right to enjoy decent, fair, dignified and respectful treatment during the criminal justice process.
- 5. **Right against discrimination:** No discrimination shall be made on the ground of the victim's religion, colour, gender, caste, ethnicity, origin, language, marital status, age, physical or mental unsoundness, disability or ideology or similar other ground.

Provided that where the particular need of the victim who is a minor, senior citizen or a person with physical or mental disability is to be considered in the course of criminal justice process, it shall not be deemed to prevent from according a special treatment to such a victim as far as possible.

**6. Right to privacy:** (1) The victim shall have the right to privacy in the course of investigation, enquiry, prosecution and court proceedings of the following offences:

- (a) Rape,
- (b) Incest,
- (c) Human trafficking,
- (d) Sexual harassment,
- (e) Such other criminal offence as prescribed by the Government of Nepal by publishing a notice in the Nepal Gazette.

(2) No person shall disclose the identity of the victim in any manner, in the offences referred to in sub-section (1).

(3) Where it is required to have any deed executed by, take statement or deposition of, the victim in the course of investigation, enquiry and court proceedings of the offences referred to in sub-section (1), it shall be done as follows, if the victim so desires:

- (a) By presenting the victim, without disclosing his or her identity,
- (b) By making the victim change his or her actual voice,
- (c) By using the audio-visual dialogue technology in such a way that the accused cannot see and hear,
- (d) By making provision so that the accused cannot see or her or can only hear.

**7. Right to information relating to investigation:** (1) Where the victim so demands, the investigating authority or body shall provide him or her with information on the following matters as soon as possible:

- (a) Medical, psychological, psychiatric, social, legal or any other service or counseling to be received by the victim pursuant to this Act or the prevailing law,
- (b) Name and full address of the prosecuting body,
- (c) Name, office and telephone number of the investigation authority,
- (d) Progress report of investigation and enquiry,
- (e) Name, age, address and complexion of the suspect,
- (f) Where the suspect is arrested, description thereof,
- (g) Matters expressed in relation to the offence by the suspect or any other person before the investigating authority,

- (h) Where the suspect has absconded from the custody of the investigating authority or has been arrested again, description thereof,
- (i) Where the investigating authority has released a person remanded in custody or arrested in the course of investigation, upon considering that it is not necessary to keep that person in custody, description,
- (j) General information about the investigation and enquiry processes to be carried out with respect to the offence pursuant to the prevailing law.

(2) Notwithstanding anything contained in clauses (d), (e), (f), (g) and (h) of sub-section (1), in cases where it is likely to adversely affect the investigation into the offence or to pose threat to body, life and property of the suspect or any person associated with him or her if such information is provided to the victim, the investigating authority shall not be compelled to provide such information to the victim, and the authority shall give information thereof, along the reasons why information could not be so provided, to the victim.

**8. Right to information relating to prosecution:** The prosecuting body or authority shall provide the victim with the following information as to the offence as soon as possible if the victim so demands:

- (a) Where decision has been made not to institute the case, the ground and reason for making such decision not to institute the case,
- (b) Where decision has been made to institute the case against any person but not to institute the case in the case of any person, the name, surname and address of the person against whom the decision has been made not to institute the case, and the ground and reason for making decision not to so institute the case,
- (c) Where decision is made to institute the case, a certified copy of the charge-sheet,
- (d) General information relating to the court proceedings that take place pursuant to the prevailing law,
- (d) Where any additional claim has been made pursuant to the prevailing law with respect to the person against whom the case has been instituted or the person against whom the case has not been

instituted for the time being, description thereof and the order made by the case trying authority in that respect.

- (e) Where the victim is also an eyewitness of the offence, information relating to the role to be played by him or her as a witness,
- (f) Where the accused who has absconded at the time of filing the charge-sheet is arrested in pursuance of the order of the case trying authority or voluntarily appears, description thereof,
- (g) Where the Government of Nepal has decided to withdraw the case filed in the court in relation the offence, description thereof.

**9. Right to information relating to judicial proceedings:** The prosecuting body or authority or court or the concerned body shall provide the victim with the following information as soon as possible if the victim so demands:

- (a) Where the accused has to remain in detention for trial, description thereof,
- (b) Where the accused is not required to remain in detention for trial or the accused who has been detained is released from detention, description thereof,
- (c) Date, venue and time of hearing to be held by the court,
- (d) Where the accused has made an application that he or she be released on bail, guarantee or on the condition of making appearance on the appointed date pursuant to the prevailing law, information related thereto and the content of the order made on such application,
- (e) Description of the terms and conditions set by the case trying authority while releasing the accused on bail, guarantee or on the condition of making appearance on the appointed date or for the safety of the victim or close relative of the victim,
- (f) Where the accused has filed a petition to the appellate level against the order made by the court of first instance pursuant to the prevailing law that he or she should be released on bail, guarantee or on the condition of making appearance on the appointed date, the notice of the petition and description of the order made on such a petition,

- (g) Where the accused held in detention for trial escapes from the detention has been rearrested or voluntarily appears, description thereof,
- (h) Where the accused or offender has been released from detention or prison on the condition of supervision, the conditions of supervision, and where such conditions are altered, the details relating to the altered conditions and the date on which such alterations come into force,
- (i) Whether the accused or offender released from detention on the condition of supervision has complied with the conditions of supervision or not,
- (j) Where the accused or offender has been transferred from the prison pursuant to the prevailing law, description relating thereto,
- (k) The punishment imposed on the offender and in the case of the sentence of imprisonment, the period when the service of the imprisonment completes,
- (l) Where the offender has absconded prior to the service of the sentence of imprisonment or has been rearrested, description thereof,
- (m) Where the punishment sentenced to the offender is pardoned, postponed, charged or reduced or where the offender gets clemency from the punishment under any legal provision prior to the service of the sentence of imprisonment, description thereof,
- (n) Where the perpetrator against whom the case has not been instituted or who has not been sent to prison or who has been released from detention on the condition of remaining under supervision pursuant to the prevailing law violates the terms and conditions of supervision, the body to which the victim may make a complaint against it and the manner of making such a complaint,
- (o) Name and address of the prison where the offender is serving the sentence,
- (p) Where the offender has got probation, parole or community service or open prison or any other facility of similar type, description relating to this,



- (q) Whether the Government of Nepal has made an appeal or not against the decision made in relation to the offence,
- (r) Where order has been made to summon the presence of the respondent on the appeal, if any, made by the defendant against the judgment, description thereof,
- (s) Decision of the appellate level on the appeal made against the judgment, and its consequence,
- (t) Where the offender has been put under supervision and an application is made by the offender or anyone else to change the terms and conditions of supervision or to revoke the order of supervision pursuant to the prevailing law, the decision made on that application,
- (u) Where the accused or offender has died while in detention or prison, description thereof,
- (v) Where the Government of Nepal sends back a foreign accused or offender out of the territory of the State of Nepal pursuant to the prevailing law or deports him or her to a foreign state or government, description thereof.

**10. Right to become safe:** The victim shall have the right to become safe from attack, damage, fears, intimidation or threat likely to be made or exerted by the suspect, accused, offender or person related to him or her or the witness of the accused against the victim or close relative of the victim and person dependent on the victim.

**11. Right to express opinion:** (1) The victim shall be entitled to express his or her opinion before the concerned authority on the following matters:

- (a) While making a charge against the suspect for the offence concerned,
- (b) Where it is required to make decision for not instituting the case in relation to the suspect,
- (c) Where it is required to make agreement with the accused by way of plea bargaining as to the charge pursuant to the prevailing law,
- (e) Where request is to be made to the case trying authority for a clemency in the punishment imposable pursuant to the prevailing law,

- (f) Where additional claim is to be made to the charge-sheet filed before the case trying authority pursuant to the prevailing law,
  - (g) Where a pre-sentencing report is to be prepared before specification of the sentence for the offender pursuant to the prevailing law,
  - (h) While specifying sentence for the offender pursuant to the prevailing law,
  - (i) Where investigation is to be carried out pursuant to the prevailing law as to whether the accused has mental or physical capacity to commit the offence,
  - (j) Where decision is to be made to send him or her to the service of diversion program in the case of the accused or offender,
  - (k) Where decision is to be made to provide probation, parole, suspended sentence, open prison, community service or any other service of similar type to the offender pursuant to the prevailing law,
  - (l) While conducting hearing as to whether or not consent is to be granted for withdrawing the case related to the offence that is *sub judice* in the court pursuant to the prevailing law.
- (2) For expressing an opinion pursuant to sub-section (1), the concerned authority shall provide the victim with a reasonable time.

- 12. Right to appoint legal practitioner:** The victim may appoint a separate legal practitioner in the criminal justice process if he or she so wishes.
- 13. Right of attendance and participation in hearing:** (1) Except as otherwise ordered by the court, the victim shall have the right to attend and put forward his or her opinion in the proceedings relating to hearing by the court in relation to the offence.

Provided that where the victim is also a witness of the case, the court may prevent him or her from attending the particular proceeding until he or she makes deposition as the witness.

- (2) The court shall make order or decision, also upon considering the statement expressed by the victim pursuant to sub-section (1).
- 14. Right to stay in separate chamber in the course of hearing:** (1) In the course of the hearing of the offence, the court may provide a separate chamber for the victim so that he or she can stay separately from the accused, person related to the accused and witness of the accused.

(2) Where it is not possible and practical to provide a separate chamber pursuant to sub-section (1), the court shall make necessary arrangement for the safety and interest of the victim so that the accused, person related to the accused and witness of the accused cannot contact the victim, except as otherwise ordered by the court.

**15. Right to have property returned:** (1) The concerned investigating authority shall return the property of the victim taken under control in the course of investigation or for evidence, immediately after the completion of investigation.

(2) Where the property taken under control pursuant to sub-section (1) is to be submitted to the court for evidence or there is a dispute as to the ownership or possession of the property, the property shall not be returned before the dispute is settled.

(3) Notwithstanding anything contained in sub-section (2), the court may, if it so thinks necessary, make an order to return such property before the dispute is settled.

**16. To hold discussion as to the case related to offence:** In the following circumstances, the court may, with the consent of both the victim and the accused, hold discussion between the victim and the accused on any matter related to the offence:

- (a) Where the court is satisfied that such discussion would assist in the settlement of the dispute,
- (b) Where the discussion is held under the supervision of the court,
- (a) Where holding discussion is not prejudicial to public interest and justice.

**17. Right to make written application:** (1) Where the Government of Nepal has the right to make application or appeal against any order or decision of the court if it is not satisfied with such order of decision, the victim may make a written application to the concerned body or authority, requesting that application or appeal be made against that order or decision.

(2) The application referred to in sub-section (1) has to be made within fifteen days from the date of receipt of information of such an order or decision.

(3) The concerned body or authority that has the right to make application or appeal against the decision, order or decision referred to in sub-section (1) shall make decision by considering such an application.

(4) Information of the decision referred to in sub-section (3) shall be given to the victim.

- 18. Right to get information as to compensation:** (1) Where the victim is entitled to obtain compensation pursuant to this Act or other prevailing law and the victim seeks information with respect to it, the prosecuting authority shall give the victim information about the action required to be taken in order to obtain compensation.

(2) Where the prosecuting authority has the authority to take action relating to compensation on behalf of the victim pursuant to the prevailing law, the prosecuting authority shall, at the request by the victim, take such necessary action as to be taken on behalf of the victim.

- 19. Right of compensation and social rehabilitation:** (1) The victim shall have the right to obtain compensation for the damage he or she has sustained, pursuant to this Act.

(2) For the social rehabilitation of the victim, the Government of Nepal, Provincial Government and Local Level may, with mutual coordination, conduct necessary plan and program based on the available resources and means.

- 20. Right to make application or appeal:** (1) Where the concerned victim is not satisfied with the order or decision made by the court on any offence, the victim may make application or appeal if such application or appeal can be made against such order or decision pursuant to the prevailing law, setting out the ground and reason.

(2) Where no period is specified in the concerned law for making the application or appeal referred to in sub-section (1), such application or appeal has to be made within fifteen days from the date of receipt of information of the order or decision.

(3) The concerned authority has to make decision upon considering the ground and reason mentioned in the application referred to in sub-section (1), and give information of such decision to the applicant as well.

- 21. Duties of the victim:** For the purposes of this Act, the duties of the victim shall be as follows:

- (a) To make or give inform or notice as to the offence on time to the competent body or authority pursuant to the prevailing law,
- (b) To assist the investigating or prosecuting authority in the course of investigation and prosecution of the offence,

- (c) To refrain from failing to appear before the investigating authority or court in order to save the person involved in the offence, or to refrain from making statement, deposition or submitting any evidence for that purpose even upon being in appearance,
  - (d) To provide his or her own real name, surname, address, telephone number, email address and provide information of the change, if any, made therein, as soon as possible.
- 22. To respect the right:** The authorities who are involved in the process of investigation, prosecution, enquiry of the offence and dispensation of justice shall pay proper attention to respecting and implementing the rights of the victim conferred pursuant to this Act and the prevailing Nepal law.
- 23. Application may be made for the enforcement of rights:** (1) For the enforcement of the rights conferred by this Chapter, the victim may make an application to High Court concerned.
- (2) Where it appears, from the application made pursuant to sub-section (1), that the right of the victim has been encroached or infringed, the High Court may issue an appropriate order for the enforcement of such right.
- (3) While issuing an order pursuant to sub-section (2), the High Court may write to the concerned body or authority to take departmental action against the official who has deliberately encroached, infringed or curtailed the rights of the victim, pursuant to the prevailing Nepal law relating to the conditions of his or her service.
- (4) Where a correspondence is received pursuant to sub-section (3), the concerned authority shall take departmental action against such official pursuant to the prevailing law.
- 24. Action not be invalid:** Any decision, order or act already made or done pursuant to the prevailing law, this Act or the Rules framed under this Act shall not be void or invalid for the sole reason that the rights of the victim could not be enjoyed by the victim or have been violated or rejected.

### Chapter-3

#### Victim Impact Report

- 25. Victim impact report may be submitted:** (1) The victim may, if he or she so desires, submit a victim impact report to the prosecuting authority in such format

and setting out such descriptions as prescribed, mentioning the damage or impact directly caused to or upon him or her from the offence, prior to the filing of the charge sheet of the offence in the court.

(2) Where the victim himself or herself is not able to submit the report referred to in sub-section (1) because of the victim being a minor or a person who needs guardianship legally or for any other reasonable reason, his or her guardian or the representative under law may submit such a report on behalf of the victim.

(3) Notwithstanding anything contained in sub-section (1), where the victim is not able to submit the victim impact report prior to the filing of the charge sheet in the court, due to a force majeure event, such a report, such a report, accompanied by the evidence of the occurrence of such an event, may be submitted to the authority filing the charge sheet within one month from the date on of filing of the charge sheet in the court.

(4) Where the victim wishes to keep confidential the victim impact report referred to in sub-section (1) or (2), he or she shall also set out in the report the content that he or she intends to keep confidential and the reason for it.

(5) The prosecuting authority shall submit to the concerned court the victim impact report submitted pursuant to sub-section (1) along with the charge sheet, and the victim impact report submitted pursuant to sub-section (3), within three days from the date of receipt.

**26. Duplicate copy may be demanded:** (1) The accused or offender who desires to receive a duplicate copy of the victim impact report submitted to the court pursuant to sub-section (5) of Section 25 may get the duplicate copy of such a report from the court.

(2) Notwithstanding anything contained in sub-section (1), the court may refuse to issue a duplicate copy of the victim impact report in following conditions:

- (a) Where the accused is absconding,
- (b) Where the issuance of the duplicate copy would be prejudicial to the safety and privacy of the victim,
- (c) Where the victim desires to keep the victim impact report confidential.

**27. Victim impact report may be taken as the basis:** (1) The court may also take the victim impact report as the basis while determining the sentence for the offender.

(2) Notwithstanding anything contained in sub-section (1), while determining the sentence punishment, the court shall not take as the basis that part of which duplicate copy has been refused to be issued or that part of the report which has been kept confidential.

- 28. Not to make presumption that less damage has been caused from the offence:** No presumption shall, by the sole reason that the victim has not submitted the victim impact report pursuant to this Chapter, be made that less damage or impact has been caused from the offence to or upon the victim.

#### **Chapter-4**

#### **Compensation**

- 29. Power to make order for interim compensation:** (1) Where it is required to have treatment of the victim or provide compensation or any kind of relief amount immediately, the court may make an order for getting such a person medically treated or providing compensation or relief amount in an interim manner.

(2) Where the order referred to in sub-section (1) is made, the victim shall be provided with compensation or relief amount from the Fund.

(3) Where the accused person is convicted of the offence upon judgment by the court, the court shall order such an offender to pay the amount of compensation or relief amount provided pursuant to sub-section (2) to the Fund within thirty-five days of the date on which the judgment was made.

(4) Where so ordered by the court pursuant to sub-section (3), such an offender shall pay to the Fund the amount of compensation or relief, and where he or she does not pay such amount within that period, it shall be recovered from any assets belonging to such an offender as government arrears, within sixty days of the date on which the judgment was made.

- 30. To get compensation recovered from offender himself or herself:** (1) The court may, while making final settlement of the case, make an order that a reasonable amount be paid, as compensation, by the offender to the victim.

(2) While making order for the payment of the compensation pursuant to sub-section (1), the court shall ascertain as to whether the victim has obtained the interim compensation or not pursuant to Section 29.

(3) Where the court makes an order pursuant to sub-section (1) that compensation be paid by the offender to the victim who has already obtained

interim compensation pursuant to Section 29, only the amount that remains after returning the amount of interim compensation obtained by the victim to the Fund shall be provided to the victim.

(4) Notwithstanding anything contained elsewhere in this Section, where it appears that the victim cannot get compensation because the offender has no property or where the offence is established but the offender cannot be held to be convicted or where the case related to the offence is withdrawn pursuant to the prevailing law, the court may make an order that appropriate amount be paid as compensation to the victim from the Fund.

(5) The amount of compensation shall be provided to the victim from the Fund within thirty-five days from the receipt of the order pursuant to sub-section (4).

**31. Bases to be taken while determining the amount of compensation:** While determining the amount of compensation to be provided to the victim, the court may take any or all of the following matters as the basis:

- (a) Reasonable expenses borne or to be borne by the victim for medical, psychological or psychiatric counseling,
- (b) Expenses of medical treatment borne or to be borne by the victim,
- (c) Unexpected travel expenses borne by the victim,

**Explanation:** For the purpose of this clause, "unexpected travel expenses" means the reasonable expenses incurred in transport while traveling more than ten kilometers for receiving counselling or treatment service which the victim requires immediately to lessen the damage caused to the victim as a direct result of the offence because such service is not available within the distance of ten kilometers from the victim's place of settlement or workplace or the scene of crime.

- (d) Expenses for legal practitioner borne by the victim,
- (e) Damage caused to the personal capacity of the victim as a direct result of the offence,
- (f) Financial loss borne or to be borne by the victim,



Provided that where the victim has obtained or is obtain compensation for such financial loss from the insurance pursuant to law, compensation shall not be provided pursuant to this clause.

- (g) Expenses incurred or to be incurred in repairing or maintaining the damaged personal goods or purchasing new ones,
- (h) The victim's income generation capacity lost or damaged as a direct result of the offence,
- (i) Negative effect caused to the physical beauty of the victim,
- (j) Damage caused to physical, intellectual, sexual or reproductive capacity of the victim,
- (k) In the case of the offence of rape, negative effect caused from such offence to the social, cultural or family prestige or relationship of the victim,
- (l) Where the victim becomes pregnant due to rape, expenses incurable in abortion or giving birth to and nurturing the baby,
- (m) Medical treatment expenses in the case of abortion caused from the offence,
- (n) Reasonable expenses spent by the victim in good faith to become safe from additional offence that is likely to be committed against him or her, where the special condition is attracted,

**Explanation:** For the purposes of this Section "special condition" means the condition where the victim has sustained or has to sustain unnatural impact or effect as a direct result of the offence committed against the victim, by taking undue advantage of the physical or mental condition of, or the place of residence, workplace of, the victim or special location of the scene of crime at the time of the commission of the offence.

- (o) Mental or emotional damage borne by the victim,
- (p) Other appropriate grounds according to the nature and effect of the damage,
- (q) In the case of the victim whom special condition is applicable to, reasonable expenses incurred by the victim in good faith to save the victim of first grade from additional offence,
- (r) Guardian's patronage lost by the minor children.

- 32. To consider group of offences as one offence:** For the purpose of providing compensation pursuant to this Act, compensation shall be provided by considering a group of offences as one offence.

**Explanation:** For the purposes of this Section "group of offences" means two or more than two offences that are connected for the following reasons:

- (1) Having been committed by the same person or group of persons against the same person in the same incident, or having the same characteristics between these offences for any other reasons, and
- (2) Death of the victim or damage caused to the victim from the offence.

- 33. Compensation not available in more than one status:** No person may receive the compensation referred to in this Act as the victim of first grade, victim of second grade and family victim or in more than one form or status in any other form.

- 34. Compensation not to be provided:** Notwithstanding anything contained elsewhere in this Act, the following victims shall not be provided with compensation pursuant to this Act:

- (a) One who commits the offence in relation to which compensation is to be received, attempts to commit it, entices or conspires to commit, or assists in the commission of, or is an accomplice involved in, the offence,
- (b) One who makes claims for compensation referred to in this Act in the capacity of the victim of first grade where the offence has been committed against him or her when he or she was involved in any other offence or due to that reason,
- (c) A family victim of the person who has died when he or her was going to commit an offence against any one or due to that reason,
- (d) A person who is entitled to receive compensation pursuant to the prevailing law under the insurance provision of third party with respect to the damage caused due to a motor vehicle accident,

Provided that nothing herein contained shall bar the provision of compensation pursuant to this Act in cases where such a person was killed or injured by using a motor vehicle with the intention of killing or injuring.

- (e) A victim of second grade or family victim who has information that the victim of first grade has been involved in any other offence or has reasonable reason to receive such information,

Provided that this provision shall not be applicable to a person who is a witness at the time of the commission of the offence for which compensation is to be received.

- (f) A person who is victim of an offence and whose treatment has been made free on behalf of the government or whose treatment expenditure has been borne by the government and there is a possibility that the victim may get recovery,

Provided that nothing herein contained shall bar the provision of compensation in the case of a damage other than the expenses for medical counseling or medical treatment.

- (g) A victim prisoner who is in detention upon being sentenced to imprisonment pursuant to the prevailing law and has suffered mental injury due to the offence committed against him or her while in detention,

Provided that nothing herein contained shall bar the provision of compensation also for the mental injury caused from being imprisoned for the sole reason of not being able to pay the fine imposed on him or her pursuant to the prevailing law.

- (h) A person who has been convicted of the offence against the State under the prevailing law,
- (i) A person who has been convicted of any organized crime under the prevailing law,
- (j) Except for a victim who is a minor or of unsound mind, a person who has become victim of an offence committed against him or her due to provocation by him or her to commit the offence against him or her or due to the conduct of the victim,
- (k) A person who does not make information or complaint in relation to the investigation of, court proceedings on, the offence, who makes a false information or complaint, who does not assist the investigating or prosecuting authority or who makes a statement, deposition or submits evidence with the objective of saving the

person involved in the offence, or who, for that purpose, makes such a statement or deposition in the court that is contrary to the statement made before the investigating authority,

- (l) A person who has received, or appears to receive, financial support or compensation from any other source of the Government of Nepal with respect to the offence for which he or she is entitled to obtain compensation,
- (m) A person who appears to be unjust for being provided with compensation from the perspective of justice,
- (n) A person who makes an application to the effect that he or she does not wish to obtain compensation,
- (o) A person who is yet to pay such fine, claimed amount or any other amount as ordered by the order of the court or such revenue or other amount payable by the victim to the Government of Nepal,
- (p) Where it is held that a false complaint has been made,
- (q) Such a victim in cases where the perpetrator is likely to receive the benefit of compensation because of the fact that both the victim and the perpetrator are both the members of an undivided family at the time of the commission of the offence,

Provided that nothing herein contained shall bar the provision of compensation to the victim pursuant to this clause in the following conditions:

- (1) Where the perpetrator is not bound to bear the criminal liability pursuant to the prevailing law because of his or her age or mental unsoundness,
- (2) Where there is no legal provision entitling the victim to compensation from the offender in such an offence, or even if it exists such a provision, it does not appear that the victim will be able to obtain compensation from the perpetrator because there is no property in the name of the perpetrator or the undivided family or for any other reason but it is proved that the victim has lived apart upon separating the bread and board from the undivided family consisting of the perpetrator after the offence has been committed, or

(3) A woman who is a victim of rape or a child born from her.

- 35. Compensation amount to get first priority:** Notwithstanding anything contained in the prevailing law, where the offender has also to pay compensation to the victim, in addition to the fine, government claimed amount, ten percent, twenty percent fee, public claimed amount or any other amount, by a judgment of the court, the first priority shall be given to the compensation to be received by the victim pursuant to this Act from the amount recovered from the offender.
- 36. To be recovered as government arrears:** Where the offender does not provide the victim with the amount of compensation ordered by the court to be recoverable to the victim pursuant to this Act, the court shall get it provided to the victim by recovering it from the movable and immovable property of the offender as government arrears.
- 37. To receive compensation by dependent child or guardian:** Where the victim dies before obtaining the compensation pursuant to this Act, his or her child dependent on him or her or guardian shall be entitled to such amount of compensation.
- 38. To deduct the amount received earlier for compensation:** While making payment of the amount of compensation to the victim pursuant to this Act, only the amount that remains after deducting the amount received by him or her earlier for interim compensation shall be provided.
- 39. To pay the amount of compensation to the Fund:** If the victim does not appear to receive the compensation until six months from the date on which information as to his or her entitlement to compensation was given pursuant to this Act, the amount of such compensation amount shall be paid to the Fund after that period.
- 40. No entitlement of any one else to the amount of compensation:** Notwithstanding anything contained in the prevailing law, no one else shall have entitlement to the amount obtained as compensation pursuant to Section 29 or 30 of this Act except where such amount is to be returned, deducted or recovered pursuant to this Act.

## **Chapter-5**

### **Compensation Levy**

- 41. Provisions relating to compensation levy:** (1) The offender shall pay the following amount to the Fund, as the compensation levy:

- (a) Two hundred rupees where punishment of imprisonment for less than one year is imposed,
- (b) Four hundred rupees where punishment of imprisonment for one year to two years is imposed,
- (c) Six hundred rupees where punishment of imprisonment for two years to three years is imposed,
- (d) Eight hundred rupees punishment of imprisonment for three years to four years is imposed,
- (e) One thousand rupees where punishment of imprisonment for four years to five years is imposed,
- (f) One thousand three hundred rupees where punishment of imprisonment from five years to eight years is imposed,
- (g) One thousand eight hundred rupees where punishment of imprisonment from eight years to twelve years is imposed,
- (h) Two thousand two hundred rupees where punishment of imprisonment for above twelve years but below life imprisonment is imposed,
- (i) Two thousand eight hundred rupees where punishment of life imprisonment is imposed.

(2) The offender who has been sentenced to a fine only but not to imprisonment shall pay the compensation levy in such an amount as to be set by four percent of the fine so imposed.

(3) Where the offender is sentenced to both punishments of imprisonment and fine, he or she shall pay the compensation levy in such an amount which becomes the higher, out of that to be set from the imprisonment and fine pursuant to sub-section (1) or (2).

(4) The court shall determine the compensation levy pursuant to this Section while making judgment on the offence concerned.

(5) The compensation levy referred to in this Section shall be credited to the Fund.

**42. Liability to pay compensation levy not to be deemed terminated:** (1) Even if it is required to pay a fine or bear any other pecuniary liability as well for the offence in relation to which the compensation levy is to be paid pursuant to Section 41 or

to pay compensation paid to the victim, the liability to pay the compensation levy referred to in Section 41 shall not be deemed to have terminated.

(2) Even in cases where the sentence imposed on the offender is pardoned, postponed, changed or lessened or remitted or suspended pursuant to the prevailing law, the liability of the offender to pay the compensation levy referred to in Section 41 shall not be deemed to have terminated.

- 43. Power to make order to lessen, or dispense with the requirement to pay, the compensation levy:** (1) If any offence is not able to pay the compensation levy referred to in Section 41, he or she may make an application, along with the basis, ground, reason therefor and evidence thereof, to the court concerned for an order that the compensation be lessened or the requirement to pay it be dispensed with.

(2) While inquiring into the application made pursuant to sub-section (1), where the court thinks that there is a reasonable condition that such an offender cannot pay the compensation levy, the court may make an order that the compensation levy referred to in Section 41 be lessened or the requirement to pay it be dispensed with.

## Chapter-6

### Victim Protection Suggestion Committee

- 44. Victim Protection Suggestion Committee:** (1) There shall be a Victim Protection Suggestion Committee as follows, for making suggestions to the Government on the protection of the rights and interests of the crime victims:

- |     |  |              |
|-----|--|--------------|
| (a) | Attorney General   | -Coordinator |
| (b) | Chairperson, Nepal Law Commission  | -Member      |
| (c) | Secretary, Government of Nepal, Ministry of Finance  | -Member      |
| (d) | Secretary, Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs   | -Member      |
| (e) | Inspector General of Police, Nepal Police  | -Member      |
| (f) | One expert designated by the Government of Nepal from among the persons who have made significant contribution in the field of victimology or criminal justice | -Member      |

(2) The tenure of the member referred to in clause (f) of sub-section (1) shall be of five years.

(3) Notwithstanding anything contained in sub-section (2), the Government of Nepal may at any time remove the member referred to in clause (f) of sub-section (1) if he or she has incompetence or bad conduct or fails to perform his or her duties honestly.

Provided that prior to so removing from the office, he or she shall not be deprived of an opportunity to submit his or her clarification.

**45. Functions of the Victim Protection Suggestion Committee:** (1) The functions of the Victim Protection Suggestion Committee shall be as follows:

- (a) To make suggestions to the Government of Nepal as to the improvement and revision to be made in the existing law for the protection of the rights and interests of the victims,
- (b) To make suggestions to the Government of Nepal as to the policy measures to be adopted by the Government of Nepal for the security of the victims and mitigation of damage and adverse effects sustained by the victims from the offence,
- (c) Where Nepal is to become a party to an international treaty or agreement related to the rights of the victims, to make recommendation to the Government of Nepal to that effect, along with the reason,
- (d) To make suggestions to the Government of Nepal to operate such particular service as is necessary upon identifying the needs of the victims.

(2) Having regard also to the suggestions of the Victim Protection Suggestion Committee, the Government of Nepal shall operate the services including relief, social rehabilitation, counseling, financial, physical, social, legal aid/support for the security, protection of the rights and interests of the crime victims, and for mitigating the damage, negative impact and effect sustained or to be sustained by the victims due to the offence.

**46. Meeting allowance:** The coordinator and members of the Victim Protection Suggestion Committee shall get such meeting allowance as prescribed by the Government of Nepal for participating in the meeting of the Committee.



## Chapter-7

### Miscellaneous

47. **To provide from the Fund:** The victim shall be provided compensation in a reasonable amount from the Fund for the damage sustained as a result of any offence committed by a perpetrator who does not have to bear the criminal liability due to his or her age, mental unsoundness, diplomatic immunity and any other reason.
48. **To claim for compensation:** While making prosecution in any offence, the victim of first grade, victim of second grade and family victim shall have to make an explicit claim for compensation to be obtained by them.
49. **To provide information:** The concerned body or authority who is involved in the proceedings of such matters or who maintains the records of such information or who has the access to such information shall provide such information to the body or authority who has the duty to provide information to the victim pursuant to this Act.
50. **To give a notice of final hearing:** (1) Notwithstanding anything contained in the prevailing law, the court shall give a notice of final hearing of the case related to the offence to the concerned Government Attorney Office in advance of at least seven days.
- (2) After receiving information pursuant to sub-section (1), the Government Attorney Office shall, as promptly as possible, give information of final hearing to the concerned victim to the extent possible.
51. **Modes of giving notice to the victim:** The concerned body or authority who has the duty to give a notice to the victim pursuant to this Act may give it in writing, orally, by telephone or electronic means so that it will remain in the record, as required.
52. **Power to appoint representative:** For the enjoyment or enforcement of the rights of the victim conferred by this Act, the victim may appoint his or her representative or attorney pursuant to the prevailing law, and when so appointed, the victim shall be deemed to have enjoyed or enforced his or her rights through such a representative or attorney.
53. **Power to frame Rules:** The Government of Nepal may, in consultation with the Committee, frame necessary rules for the implementation of the objectives of this Act.
54. **Power to make directives:** The Government of Nepal may, subject to this Act or the Rules framed under this Act, make necessary directives in relation to the provision of compensation to the victims.