

# **PROPOSAL FOR SETTING UP A NATIONAL COMMISSION FOR SENIOR CITIZENS**

## **INTRODUCTION**

Fast pace of population ageing is resulting in increasing number and proportion of senior citizens, and most of the older persons hope to look forward to many more years of long and healthy life. In practice, however a sizeable proportion of senior citizens remain poor and marginalized, and face problems of health, social security, personal safety, neglect, abuse, and even isolation and abandonment. A fundamental shift is needed in the way older persons are thought; from dependency and deficit towards independence and well-being. National Policy on Older Persons declared in 1999 underlined this thinking. Several areas for intervention like income security, health care, safety and security, housing, productive ageing, education and protection during natural disasters and emergencies were highlighted in the policy. An important element of the policy is that it recognizes the need for special attention to vulnerable older persons, particularly the older women. The policy places value on an age-integrated society and recognizes that the older persons, too, are a resource. It aims to strengthen the legitimate place of older persons in the society and helps them to live the last phase of their life with dignity and peace. Further, for giving legislative backing to the policy, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted in 2007. Keeping in view the changing demographics, socioeconomic pattern and technological advances, National Policy was reviewed in 2011 and a new National Policy on Senior Citizens was announced by Government of India. This policy looks at the increasing longevity of people and problem of the lack of care giving. In principle, the policy values an age integrated society. The focus of this new policy is to promote and establish senior citizens' associations, especially amongst women, to promote the concept of "Ageing in Place" or ageing in own home, housing, income security, home care services, old age pension, access to healthcare insurance schemes and other programs and services, to consider institutional care as the last resort, to work towards an inclusive, barrier free and age friendly society, to recognize senior citizens as a valuable resource for the country, to protect them from abuse and exploitation, to support and assist organizations that provide counseling, career guidance and training services, to advise States to implement the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and to support States to set up homes with assisted living facilities for abandoned senior citizens.

One of the implementation mechanisms which is laid down in the National Policy for Senior Citizens, 2011 is that a National Commission for Senior Citizens at the centre and similar Commissions at the State level will be constituted. The National Commission would be set up

under an Act of the Parliament with powers of Civil Courts to deal with cases pertaining to violations of rights of senior citizens.

### **Mission**

To provide high quality programs and services that stimulate and advance active and healthy living for all ages of senior citizens.

### **Vision**

To be the premier community resource for the changing needs of senior citizens and those who love and care for them.

### **MANDATE**

The Commission's Mandate is to ensure that all Laws, Policies, Programs, and Administrative Mechanisms are in consonance with the perspective of Rights of Senior Citizens as enshrined in the Constitution of India and also the UN Convention on Ageing.

The Commission visualizes a right-based perspective flowing into National Policies and Programs, along with distinct responses at the State, District and Block levels, taking specificities and strengths of each region. In order to touch every senior citizen, it seeks a deeper penetration to communities and households, and expects that the ground experiences inform the support the field receives from all authorities at the higher level. Thus the Commission sees an indispensable role for the State, sound institution-building processes, respect for decentralization at the level of the local bodies at the community level and larger societal concern for senior citizens and their well-being.

### **Objectives**

The objectives of the Commission are to represent the rights of the senior citizens of India and to provide a voice for their issues and concerns by:

- Safeguarding and protecting the interests of senior citizens provided in the Constitution and Laws enacted by Parliament and the State Legislatures;
- Recommending remedial legislative measures ;
- Facilitating redressal of grievances and
- Advising the Government on all policy matters affecting senior citizens;

### **Functions**

1.The Commission shall perform all or any one of the following functions, namely:

a.Investigate and examine all matters relating to the safeguards provided for senior citizens under the Constitution and other laws and recommend measures for their effective implementation;

b.Present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards and their implementation;

c.Review, from time to time, the existing provisions of the Constitution and other laws affecting senior citizens and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

d.Take up cases of violation of the provisions of the Constitution and of other laws relating to senior citizens with the appropriate authorities;

e. Look into matters relating to senior citizens in need of special care and protection, including those facing disability, destitution, maltreatment, abandonment, violence, torture, riots, natural disasters, and those who are very old or without family and recommend appropriate remedial measures;

f.Look into complaints and take *suomoto* notice of matters relating to:

i.deprivation of rights of Senior Citizens;

ii.non-implementation of laws enacted to provide protection to senior citizens and also to achieve the objective of equality and development;

iii.non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to senior citizens, and take up the issues arising out of such matters with appropriate authorities;

g. Allow for direct registering of complaints and facilitate prompt grievance redressal;

h. Call for special studies or investigations into specific problems or situations arising out of deprivation of rights, discrimination and atrocities against senior citizens and identify the constraints so as to recommend strategies for their removal;

i.Undertake promotional and educational research so as to suggest ways of ensuring due representation of senior citizens in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

j. Participate and advice on the planning process of socio-economic development of senior citizens;

k. Evaluate the progress of the development of senior citizens under the Union and any State;

l. Inspect or cause to be inspected a jail, or other place of custody where senior citizens are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;

m. Fund litigation involving issues affecting senior citizens;

n. Make periodical reports to the Government on any matter pertaining to senior citizens and in particular various difficulties under which senior citizens toil;

o. Recognizer gender based inequalities towards health and development programs of senior citizens and take up matters with concerned authorities;

p. Any other matter which may be referred to it by Central Government.

2. The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

3. Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.

4. The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-clause (1) have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:-

- a. summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- b. requiring the discovery and production of any document;
- c. receiving evidence on affidavits;
- d. requisitioning any public record or copy thereof from any court or office;
- e. issuing commissions for the examination of witnesses and documents;
- f. Such other functions as it may consider necessary for the promotion of senior citizens rights and quality of their lives and any other matter incidental to the above functions;
- g. forwarding cases to Magistrates who have jurisdiction to try the same and.
- h. any other matter which may be prescribed.

## **BENEFICIARIES**

For the Commission, protection of all senior citizens in the 60 years and above age group is of equal importance. Thus policies define priority actions for the most vulnerable senior citizens. This includes focus on regions that are backward or on communities or senior citizens under certain circumstances, and so on. The Commission believes that while addressing only some senior citizens, there could be fallacy of exclusion of many vulnerable senior citizens who may fall under the defined or targeted categories. In its translation into practice, the task of reaching out to all senior citizens gets compromised and a societal tolerance of violation of elderly rights continues. This would in fact have an impact on the program for the targeted population as well. Therefore, it considers that it is only in building a larger atmosphere in favour of protection of senior citizens' rights, that elderly who are targeted become visible and gain confidence to access their entitlements.

### **Kind of complaints area not entertained by the Commission**

Complaints of the following nature will not be entertained by the Commission and shall be rejected in limine, except when directed otherwise:

- a. those not relating to Senior Citizens.
- b. those concerning matters sub judice (pending before a court/quasi-judicial/body).
- c. those for which ordinary judicial/quasi-judicial/administrative remedies are available elsewhere but have not been availed by complainant without any reasonable justification.
- d. those relating to events which are two-year old or older.
- e. those which are vague, anonymous, pseudonymous or frivolous.
- f. those not directly addressed to the Commission and sent to it by way of copies of complaints/ representations addressed into any other authority.

## **STRATEGIES**

A statutory body to be constituted by passing a bill to have a '**National Commission for Senior Citizens Act, 2014**'. The Act may comprise of the 5 chapters

1. Preliminary (title, extent, definitions)
2. The National Commission for Senior Citizens (Constitution- Chairperson, Members, Member secretaries, other officers and employees, their terms of office, salaries, allowances, committees constituted under the commission and their purpose)
3. Functions of the commission (all the functions the commission seeks to perform by constituting committees, Units or sub-departments). Consultations with NGOs, social

workers and experts, regarding the structure, functions, powers etc. of the proposed Commission to be set up to come up with all possible functions. These may be incorporated into the draft bill that will be passed.

4. Finance, Accounts and Audit- To ensure accountability of the funds used by the commission by regulating expenditure and ensuring annual reports.
5. Miscellaneous- the commission chairperson and members are public servants, power to make rules and issue notifications, stipulation to central govt. to consult the commission etc.

## **INFRASTRUCTURE**

Building with adequate space to house the Commission and its staff.

The Commission will also have following cells:

Complaints and Counseling Cell

Legal Cell

Research and Studies Cell

Public Relation Cell

RTI Cell

### **Complaints and Counseling Cell**

This cell will process the complaints received oral, written or suo moto. These complaints may relate to all problems and situations arising out of deprivation of rights, discrimination and atrocities, all kinds of abuse including maltreatment, violence, abandonment, refusal to register FIR, and gender discrimination.

The complaints will be tackled as below :-

Investigations by the police to be expedited and monitored.

Family disputes to be resolved or compromised through counseling.

For serious crimes, the Commission will constitute an **Inquiry Committee** to make spot enquiries, examine various witnesses, collect evidence and submit the report with recommendations. There will be a provision for having experts/lawyers on these committees.

The complaints will be analyzed to understand the gaps in routine functioning of government in tackling violence against senior citizens and to suggest corrective measures.

The complaints are also used as case studies for sensitization programmes for the police, judiciary, prosecutors, forensic scientists, defense lawyers and other administrative functionaries.

### **Legal Cell**

Some provisions of the National Commission for Senior Citizens Act will specifically require the commission to :

- Investigate and examine all matters relating to the safeguards provided for senior citizens under the Constitution and other laws;
- Present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- Make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of senior citizens by the Union or any state;
- Review, from time to time, the existing provisions of the Constitution and other laws affecting senior citizens and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislation;
- Take up the cases of violation of the provision of the Constitution and of other laws relating to senior citizens with appropriate authorities;

The primary mandate of the Commission will be to review the constitutional and legal safeguards provided for senior citizens, recommend remedial legislative measures, facilitate redressal of grievances and advice the Government on all policy matters affecting senior citizens.

### **Research and Studies Cell**

The Research & Studies Cell will be responsible for issues related with socio economic conditions of senior citizens in the country and will call for special studies or investigations into specific problems or situations arising out of discrimination against senior citizens and undertake promotional and educational research so as to suggest ways of ensuring due representation to senior citizens in all spheres.

The Cell evaluates the progress of the development of senior citizens and thus promote their integration in a Society of all ages and their contribution in national development. This Cell will conduct seminars and workshops in collaboration with state governments for understanding the various problem areas in the field and to suggest action plan/ remedial measures to resolve these problems.

### **Public Relation Cell**

The National Commission for Senior Citizens will be committed to the protection of the rights of senior citizens in the country and to their welfare and development. To attain these aims, the Commission will organize countrywide campaigns, workshops and consultations. The PR Cell will throw light on the activities under taken by the Commission to full fill its mandate to participate, advice on the planning process of socio-economic development of senior citizens and evaluate their progress and development under the Union and the State Government.

## **MANPOWER:**

Composition of the Commission. The Commission shall consist of

1. A Chairperson, committed to the cause of senior citizens, to be nominated by the State Government.
2. A Member-Secretary to be nominated by the Central Government who shall be:
  - a. an expert in the field of management, organizational structure or sociological movement, or
  - b. an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.
3. Five Members to be nominated by the State Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, economic development, health, senior citizens' voluntary organizations, administration, education or social welfare; provided that at least one Member each shall be amongst persons belonging to the Scheduled Castes and Scheduled Tribes, respectively and that at least half of the total strength of persons appointed against the positions of Chairperson and Members shall be senior citizens. Website Hosting a state of the art website with all details uploaded on a regular basis and efforts to keep it up to date. The online facility for complaints unit and checking status of grievance redressal to be made available.

**MONETARY/BUDGET** Staff and approximate salaries(to be modified as per Government rules)

Chairperson, Members and Member-Secretary (Rs.80000/-fixed for each)

Other Staff

1. Private Secretaries to Chairperson, Members and Member-Secretary(15600-39100)
2. Secretary (37400-67000) and his PS (15600-39100)
3. Deputy Secretary (15600-39100) and his PS(9300-34800)
4. Under Secretary (15600-39100)
5. Administration Officer(15600-39100)
6. Pay & Accounts Officer(15600-39100)
7. Legal Officer(15600-39100)
8. Public Relation Officer(15600-39100)
9. Librarian(9300-34800)



10. Section Officer(9300-34800)

11. Miscellaneous staff required for sections of administration, accounts, library, complaints cell , legal cell, research

### **Website**

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### **Disclaimer**

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