

**Ministry of Social Integration, Social Security and National Solidarity  
(Social Security and National Solidarity Div)**

**12<sup>th</sup> Session of the UN Open-Ended Working Group (OEWG) on Ageing**

**Focus Area: Access to Justice**

Access to Justice by the elderly

(a) Section 17 of the **Constitution** provides for redress to be afforded by the Supreme Court to any individual whose rights under Chapter II (including section 16) have been, are being or are likely to be contravened.

***17. Enforcement of protective provisions***

*(1) Where any person alleges that any of sections 3 to 16 has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter that is lawfully available, that person may apply to the Supreme Court for redress.*

*(2) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1), and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16 to the protection of which the person concerned is entitled:*

*Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.*

*(3) The Supreme Court shall have such powers in addition to those conferred by this section as may be prescribed for the purpose of enabling*

*that Court to exercise the jurisdiction conferred upon it by this section more effectively. (...)*

- (b) Section 28 of the **Equal Opportunities Act** provides that any person who alleges that any of his rights under this Act (including any alleged discrimination on the ground of age) has been infringed may lodge a written complaint with the Equal Opportunities Commission, setting out the details of the alleged act of discrimination and further empowers a person who is unable to lodge a complaint because of an impairment, to authorise another person to act on his behalf in relation to his complaint.

The Commission may do anything that it considers necessary for, or exercise all powers, conducive or incidental to, the carrying out of its functions, and in particular may—(a) take such measures as it considers necessary to ensure compliance with the duties imposed on any person under this Act;(b) on completion of an investigation which reveals that an offence has been committed under this Act or a relevant law, refer the matter to the Director of Public Prosecutions; (c)refer any matter to the Tribunal for non-compliance with this Act; or (d) apply for an interim order under section 35 (1) (b) of the Act.

The Equal Opportunities Tribunal (EOT) shall have jurisdiction to hear and determine complaints referred to it by the Equal Opportunities Division. The EOT has the power under section 35(1)(b) to issue interim orders as a matter of urgency for the purpose of— (i) *preventing serious and irreparable damage to a person or category of persons; (ii) protecting the public interest; or (iii) preventing a person from taking any step that would hinder or impede a hearing before the Tribunal.* In the event that the EOT determines that the complaint was justified, it may require a respondent to pay compensation to an aggrieved party in an amount not exceeding 500,000 rupees. The Tribunal may also issue such directives as it considers necessary to ensure compliance with the provisions of the Act. Finally, the Act provides for a right of appeal to the Supreme Court against orders of the Tribunal.

- (c) In addition to (a) and (b) above, there exists several NHRIs (namely the National Human

Rights Commission, the Independent Police Complaints Commission, the Office of the Ombudsperson, the Ombudsperson for Financial Services etc) under whose constitutive acts, a complaint mechanism is provided for. Subject to such conditions as may be set out therein, any person, including an elderly person, who feels that there has been/is/likely to be a breach of his human rights may lodge a complaint as per the procedure set out in these enactments.