



## Media statement by the Bench Marks Foundation

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### Chapter 9 institutions are friends, not foes: communities are encouraged to use them

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#### FOR IMMEDIATE RELEASE

Communities must realise that there are avenues open to them to report injustices caused by both the private and public sectors, says the Human Rights Commission, Commission for Gender Equality and the Office of the Public Protector during the Bench Marks Foundation's conference.

The conference, held in Johannesburg on 17 and 18 November 2014, was aimed at asking questions about the future of the mining industry and what the recourse is for justice for communities.

During debates and discussions on both days of the conference, communities raised issues around human rights abuses, environmental, air and water pollution, mine closure, land issues and gender inequality and their frustration with mines, government and other organisations that still refuse to engage properly and meaningfully with them and actively fix serious issues that have persisted for decades.

"It's a war on human dignity!" said Bishop Jo Seoka, Chairperson of the Bench Marks Foundation.

"Someone once said that the worst enemy of mankind is poverty because that takes away human dignity. Our humanity is framed by whether you are dignified or not.

"The industry has created smokescreens on how it wages this war. The way business is conducted is destructive and cannot be repaired by money. Lives are damaged in a way that can never be recovered.

"The battle lines keep shifting, but it's up to all of us to use the resources available to further our struggles. We need to continue to try to communicate with mines and government and use our voices to publicise what isn't working. The way forward for the industry and our people depends on it".

The three Chapter 9 institutions explained their function and how they can assist communities. They also reiterated that they are independent and are subject only to the Constitution and the law. They need to be impartial and be allowed to exercise their powers and perform their functions without fear, favour or prejudice.

In addition, other organs of state, through legislative and other measures, must assist and protect them to ensure that they remain effective, independent, and impartial and no person or organ of state may interfere with the functioning of these institutions.

While the Public Protector can only investigate government institutions, the Human Rights Commission (HRC) and the Commission for Gender Equality (CGE) can investigate issues relating to both public and private institutions.

The representative for the Office of the Public Protector said that although the institution is restricted to government institutions, it works for the public. It is the oversight organisation.

He said: “If you are unhappy with the assistance you have received from a provincial office or suspect foul play or if an institution like the CGE, for example, is involved with an issue but is ineffective, you can come to us. We will give you advice and refer your complaint to oversight bodies and we will monitor the institution and the investigation”.

A senior researcher, for the Human Rights Commission, explained that the institution was both proactive and reactive and encourages communities to know their rights.

“Companies know the law well and can bamboozle you. Know your law and your rights. Communities need to know that they can say no to mining if the costs outweigh the benefits. If companies do not give you access to documents that they are by law obliged to share, come to us and we will help you access these documents and help you understand what is within.

“You also have the right to know what the government is spending money on or why it hasn’t been used. If there is a high vacancy rate in your local municipality, for example, you have the right to know this as well as what is happening to the money allocated for this line item.

“We can assist with individual complaints, analyse reports and advise you whether what’s happening is a violation of your rights or not.

“I also support Bench Marks’ call for the establishment of an independent national grievance and arbitration mechanism. This will certainly assist in many regards including reducing human rights infringements”.

The Commission for Gender Equality’s senior researcher said that the institution’s mission is to promote, protect, monitor and evaluate gender equality in South Africa.

“Among the products and services we provide is resolving complaints received that are gender related.

“We have the mandate to investigate any private or public entity regarding these complaints. We also evaluate laws, customs, practices and indigenous law affecting gender equality and recommend to parliament the adoption of laws that will promote gender equality and monitor compliance.

“If you have gender-based complaints, come to us and we’ll investigate. You can lodge complaints online or it can be sent via mail or delivered to a branch. We also have a toll free number 0800 007 709 that can be used”.

Several delegates at the conference stressed the importance of NGOs and community organisations coming together on important issues to fight injustices and to lodge complaints as a collective, thereby strengthening their case.

In addition, they recognised the importance of forging three relationships with Chapter 9 institutions:

1. To protect them – demands must be made to government to allow them to do their work without interference.
2. To partner with them – organisations and communities need to learn how to use them effectively to fight the injustices experienced by those effected by mining; and
3. To hold them accountable.

The three institutions said that the role Chapter 9 institutions play is essential. They can hold government and companies to account and work to affirm the public's rights.

They sent a strong message that if people don't come to them, they aren't using the opportunity that they have. They encouraged people to lodge complaints with the Public Protector, with the CGE and with the Human Rights Commission.

“Work together, but more importantly, work with us and not against us”.

The theme of the Bench Marks Foundation's conference was 'Enough is Enough: Change Now!' focussed on what, if anything, has changed since Marikana and what can be done going forward. Speakers included Ms Gross Wiesmann from the Department of Cooperation and Development for the German Embassy, Johan Theron, the Group Executive for Corporate Relations for Impala Platinum, Allan Fine from Russel and Associates.

For more information about Bench Marks Foundation and its work, go to [www.bench-marks.org.za](http://www.bench-marks.org.za).