

## DEVELOPMENT BANK TRANSPARENCY: ISSUES AND OPPORTUNITIES FOR 2002-2003 Promoting the Public's Right to Know

In FY 2000, the combined lending of the Multilateral Development Banks, such as the World Bank Group and the Inter-American Development Bank, came to almost \$40 billion spread over roughly 110 countries. This money is used to influence and leverage hundreds of billions of dollars of investments and to affect policies in areas as diverse as health, education, agriculture, water, extractive industries, transportation, banking and the judiciary. Multilateral Development Banks (MDBs) also play a central role in the development and implementation of global debt management initiatives and so-called poverty reduction strategies.

In the poorest countries in the world, the influence of the MDBs has been increasing over the past two decades. This growing influence has been accompanied by growing criticism of the policy prescriptions of these institutions. A common denominator amongst much of the criticism directed at the MDBs is that they suffer from a "democratic deficit," both in terms of their own internal governance as well as their role in limiting the policy options of member states. This "democratic deficit" is in part derived from the secrecy surrounding many of their operations. Key documents are kept confidential or are released only after commitments have been made, rather than while agreements are still being negotiated. Governing bodies, such as the

World Bank's Board of Directors, operate in almost total secrecy.

The result is that MDBs often deny communities their right to timely information and, by doing so, prevent meaningful participation in the design and implementation of projects and policies. MDB secrecy undermines domestic democratic processes, reduces the development effectiveness of the MDBs, increases the likelihood that their work will result in social and environmental dislocation, and alienates interested parties.

A growing number of organizations and individuals are now working to cast light on the activities of these institutions. Labor unions, environmental organizations, faith-based groups, development agencies and human rights organizations are working together to promote the public's right to know. Their efforts are increasingly being joined by academics, journalists and legislators who share a common belief in the importance of accountable and democratic international institutions.

On January 1, 2002, a new World Bank Information Disclosure Policy entered into force. This policy outlines what the public is allowed to know, and what it is not allowed to know about World Bank operations. The new Disclosure Policy opens up a number of strategic

opportunities for organizations that are seeking to promote the public's right to know. These opportunities relate not only to the World Bank, but also to other MDBs such as the Inter-American Development Bank, the Asian Development Bank and the European Bank for Reconstruction and Development.

This briefing outlines a range of ways in which organizations around the world could work together to cast light on the activities of the MDBs. The Bank Information Center is seeking feedback on these ideas and we hope to hear from as many groups as possible. Your criticisms, comments and questions are all welcome. We also welcome suggestions on how you might be able to contribute to efforts to promote access to information at the MDBs.

### **Towards an End to Structural Adjustment Secrecy:**

World Bank structural adjustment lending is notoriously secretive. Under the previous Disclosure Policy, none of the key documents related to adjustment lending were disclosed. In fact, it was explicitly Bank policy that they should not be disclosed. This secrecy undermined the ability of affected parties to engage in an open and fully informed debate about the potential and actual impacts of adjustment lending. Consultations surrounding the preparation of so-called Poverty Reduction Strategies are also undermined by the absence of key adjustment documents.

As of January 2002, governments will be required to disclose some previously confidential structural adjustment material and will have the option to release other documents on a voluntary basis. These advances in the new policy guarantee a marginal increase in the transparency of structural adjustment lending and will lead to a situation in which some governments will choose to disclose more information than others. By extension, those governments that choose not to disclose information may have to defend their preference for secrecy. Borrowing governments may find it increasingly difficult to justify nondisclosure in the face of more transparent practices in other countries.

While the new disclosure provisions for adjustment lending represent an improvement over the previous

policy, the Bank's new policy remains inadequate. The Bank is still unwilling to disclose *draft* documents, and this makes it difficult for citizens to influence adjustment lending negotiations. Furthermore, by making the release of most final documents voluntary rather than mandatory, the Bank has refused to take responsibility for its own transparency. Instead, borrowing governments will often be responsible for deciding whether or not to disclose World Bank documents.

Therefore, it is important not to allow the World Bank to divert attention away from its own lack of transparency, but it is also significant that borrowing governments will no longer be able to argue that the Bank's rules require complete secrecy. Organizations in borrowing countries have an opportunity to encourage their governments and the World Bank to improve the transparency of structural adjustment lending in their country. Once the majority of governments are voluntarily disclosing key adjustment documents, there will be less resistance within the Bank to making the disclosure of these documents mandatory.

### **Redefining "Best Practices" for transparency in project lending:**

The World Bank's new Information Disclosure Policy does NOT significantly improve the ability of affected communities to participate in the design and implementation of projects (the word "projects" is used here to mean investments in things such as infrastructure, as opposed to the more general lending to national budgets that is provided through structural adjustment programs). In 2001, more than 500 organizations from over 100 countries called on the World Bank to release draft project documents. They argued that if the Bank was serious about "participatory development" then it should acknowledge that meaningful participation requires access to information while decisions are still being made, not after projects are formally approved. Civil society organizations also argued that in order to effectively monitor project implementation, communities need access to supervision documents (Bank policy does not require the release of any documents during project implementation).

The response was disappointing. The World Bank refused to disclose comprehensive project

descriptions in draft form and rejected calls to disclose key supervision documents during project implementation. The Bank was clearly unwilling to give concrete policy expression to its laudable rhetoric around "participatory development" and "empowerment."

However, the Bank did announce its intention to conduct "Targeted Learning Pilots" in about ten to twenty countries. These Pilots will consist of agreements between the Bank and individual borrowing governments to implement disclosure standards above and beyond the measures required in the Bank's Disclosure Policy. The Bank sees this as an opportunity to gather additional experience in implementing enhanced transparency measures, such as the release of material in draft form. The Bank will then consider how these experiences can be more broadly applied in other countries.

Much like the disclosure of structural adjustment material discussed above, the Targeted Learning Pilots will lead to a situation in which some countries are making more information available than others. Through their involvement as a Pilot country, some governments will be establishing best practices for the transparency of World Bank operations while others will only be implementing the mandatory minimum standards that are required under Bank policy. The Targeted Learning Pilots are, therefore, an opportunity to define emerging "best practices." The Pilots also provide groups in borrowing countries with a chance to put pressure on Bank country teams and less transparent governments to "level-up" practices across countries.

#### **Improving Information Dissemination in Borrowing Countries:**

The Bank's efforts to disseminate information within borrowing countries are woefully inadequate. In recognition of this fact, the Bank is developing a strategy to improve the functioning of their Public Information Centers (PICs), which are information depositories located in borrowing countries. This will include such things as: improving the public's access to, and the availability of information within PICs; more widely disseminating information within borrowing countries (especially in project affected areas); and developing culturally appropriate information products, such as the use of radio rather

than written communication. A policy to govern the translation of Bank documents is also being developed.

Much like the disclosure of structural adjustment documents and the Targeted Learning Pilots discussed above, the upgrading of the PICs provides an opportunity to monitor emerging "best practices" and to advocate for their adoption in a broader range of countries.

#### **Establishing an Independent Review Mechanism:**

The Bank still has no way of systematically monitoring the implementation of its Disclosure Policy. It simply does not know how staff tend to respond to information requests. There is also no review mechanism for stakeholders that feel they have been improperly denied information that should be publicly available. This leads to an atmosphere where some Bank staff abuse their discretion and are not held accountable for their actions. Citizens are left with little or no recourse.

"Article 19", a London-based NGO, has developed a standard setting work entitled, *The Public's Right to Know: Principles of Freedom of Information Legislation*, which has been endorsed by the United Nations Special Rapporteur on Freedom of Opinion and Expression. Article 19 reviewed the World Bank's Disclosure Policy against the principles outlined in the above mentioned work and concluded that "the Policy fails to meet international standards in several key areas." Article 19 found that the Bank's Policy "does not provide for any independent review of refusals to disclose information" and that there was an absence of adequate process guarantees, "including requirements of timely decision-making and that refusals be accompanied by substantive written reasons." Amongst other things, Article 19 also noted that World Bank confidentiality provisions are not subjected to a "harm test" or a "public interest test" and that this runs counter to international law, including the United Nations Declaration of Human Rights.

The Bank's new Disclosure Policy does not address these issues, but there appears to be a growing willingness to discuss some kind of review procedure

that might begin to respond to the need for the various process guarantees outlined above.

### **"Open the Meetings": Transparency in World Bank Governance:**

The transparency of the World Bank's Board of Directors did not significantly improve under the new Disclosure Policy. World Bank Board meetings will continue to be held in secret, as will those of other MDBs and the International Monetary Fund (IMF). These meetings are not open to the public, nor to journalists. Transcripts of these meetings are not made available, nor are minutes. For a very limited number of discussions a brief summary is made available, but these provide very little information, they do not attribute comments to specific Executive Directors, and they apply to only a fraction of the board's discussions.

As a result of the closed nature of the Board of Directors, citizens have no way of knowing how they are being represented. The public is unable to determine if an Executive Director is promoting issues that it deems important on a day-to-day basis, whether they be economic, social, environmental or otherwise. Similarly, the public is unable to determine if their Executive Director is behaving in a way that is consistent with the laws of their country. This is a frustration that has recently been encountered by those involved in monitoring the law requiring the United States Executive Director to oppose user fees on primary health care and education at the IMF and the World Bank. In general, citizens do not have access to the information that they need to understand how they are being represented within the World Bank.

However, the call to "open the meetings" is gaining ground. There is a growing desire amongst outside observers and public officials to hold the governing structures of these institutions up to a set of democratic standards.

### **Leveling-up MDB Disclosure Standards:**

Each MDB has its own disclosure policy, some of which are now significantly better than others. Regional development banks, including the Inter-American Development Bank (IDB), the Asian Development Bank (ADB) and the European Bank for Reconstruction and Development (EBRD), are

reviewing their respective policies in the near future. These reviews present an opportunity to "level-up" standards across the MDBs. By identifying where a given MDB has fallen behind the minimum mandatory standards of other development banks, and by illustrating the importance of moving towards emerging best practices, it may be possible to significantly improve the transparency of a number of the MDBs over the next two years.

### **Towards an IFI Transparency Network:**

Taking advantage of the emerging opportunities described above will require concerted action. Mechanisms for information sharing across countries need to be established and collaboration between activists in borrowing and donor countries will need to evolve. Academics are needed to help interpret and illustrate emerging "best practices." Journalists are needed to help bring the public's attention to differences across countries, and legislators are needed to promote the public's right to know. In short, an informal collaboration between these disparate groups could help to transform the debate around IFI transparency. This holds promise not only amongst the MDBs, but also in terms of other IFIs, such as the IMF and the World Trade Organization (WTO).

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