

International Donors and the Right to Information Act

Background - While international donors¹ play only a minor role in India's large and growing economy, they nonetheless are a significant source of funding in the social, infrastructure, and institutional capacity-building sectors. Since India has historically required these organisations to report only to the national Government, Indian citizens have little information or say on the nature of the projects and programmes that they undertake in India. Indian citizens are thus beginning to pressure for greater role in the design and oversight of external assistance programmes in India, particularly those with a direct impact on governmental policy. A similar pattern is also being witnessed in other countries that receive external development and other assistance.

In this context, the Right to Information Act has provided Indian citizens with a powerful new instrument by which to access information on international donor programmes in the country, and it has been frequently employed across the country over the past three years, for precisely this purpose. While international donors are not bound by the Right to Information Act, their recipient Government agencies are. This has enabled interested NGOs and citizens to access donor project- and policy-related documents that donors claimed they could not make publicly available as per the limits set by their institutional disclosure policies.

This raises a set of important questions that it is important to answer if the Right to Information Act – and international donors themselves - are to enhance transparency and public accountability in all aspects of governance. First, in what ways might existing donor disclosure policies be working at cross-purposes to the Right to Information Act? How might these be modified to support the RTI's goal of introducing transparency and citizen participation/oversight in all government programmes and services? Secondly, does the Right to Information Act present novel disclosure 'benchmarks' that donors might be well-advised to incorporate to enhance the efficacy and public support for their projects, both in India and overseas? Thirdly, what impact – if any – has the RTI already had on the disclosure policies and practices of international donors in India?

RAAG proposes to examine these issues in a 25-30 page paper, whose research methodology is detailed below.

Key research questions

- Do all the international donors in the sample have disclosure policies?
- If so, what are the key features of the disclosure policies of the various international donors operating in India?
- How do each of these policies compare with the RTI Act, especially in terms of certain critical disclosure tests?
- How effectively are international donors implementing their disclosure policies in India? Are they going beyond minimum requirements to reveal the maximum permissible?

¹ This includes both multilateral and bilateral governmental development cooperation agencies, as also large private charitable trusts and foundations.

- In what ways might these policies and practices be strengthened to improve the transparency and effectiveness of these organisations' operations in India?
- In what ways, if any, are international donors supporting governmental and civil society efforts in India to strengthen the implementation of the Right to Information Act? How might these programmes be strengthened?

Sampling

The analysis will assess the disclosure policies of the 9 largest multilateral and bilateral governmental donors to India², and 2 of the world's largest private donor foundations with active India programmes. This donor sample can be further sub-divided into the following five functional categories:

1. Multilateral loan-giving agencies (World Bank; the Asian Development Bank).
2. Bilateral loan-giving agencies (Japanese Bank for International Cooperation; GTZ; Russians)
3. Multilateral grant-giving agencies (United Nations Development Programme; European Union)
4. Bilateral grant-giving agencies (Department for International Development, United States Agency for International Development)
5. Private grant-giving foundations (Bill and Melissa Gates Foundation, Ford Foundation)³

Study design

The following section details the specific questions that will guide each major component of the analysis.

1. A comparison of international donors' disclosure policies and the Right to Information Act

- What type of assistance does each of the sample organisations provide to India?
- Does each of these organisations have a disclosure policy? What are the key features of each policy?
- Is each sample organisation also bound by additional sector- or programme-specific disclosure requirements that extend its disclosure policy in practice? (E.g. reporting requirements on environmental impact, resettlement and rehabilitation policies, etc.)
- What are the key disclosure principles and practices of the Right to Information Act?
- How do the disclosure policies and practices of each sample international donors measure against those of the Right to Information Act?
- What are the areas in which international organisation disclosure policies differ from the RTI? In which specific areas do the former set a benchmark, and in which the latter?

² These organizations have been drawn from the Ministry of Finance's listing of all current external assistance to India, by major donor and project. (This list can be found on www.finmin.nic.in/the_ministry/dept_eco_affairs/dea.html and www.cdssindia.gov.in). The listing excludes erstwhile donors that have disbursed no new assistance to India over the past five years.

³ These two foundations are drawn from the global List of Wealthiest Charitable Foundations, compiled by the Foundation Centre in the United States. While the Bill and Melinda Gates Foundation is the world's largest private donor foundation, with a corpus of US\$ 38.7 billion, the Ford Foundation ranks fourth with US\$ 13.7 billion.

- What are suggested areas for improvement?

2. An examination of how international donors implement their disclosure policies in practice

- What reporting requirements does each sample international organisation currently have to meet, both in India and at home?
- Do these requirements provide the Indian Government and Indian citizens with sufficient insight into these organisations' programmes and impact in India?
- What is the procedure by which international donors are required to respond to 'on demand' requests for information in India? (That is, how is an application filed, within what period must it be responded to, do dissatisfied applicants have an appeal mechanism, are there penalties for non-disclosure of permitted information, etc.?)
- Are international donors effectively fulfilling their disclosure policies and procedures in India?
- Are they going beyond minimum disclosure requirements to pro-actively share the maximum information permissible with the Indian public?
- How does the disclosure policy and practice of each organisation in India compare with the overall levels of transparency required in their parent countries?
- What are suggested areas for improvement?

3. An analysis of international donors' RTI-related programmes and spending in India

- What RTI-related projects and programmes is each sample international organisation executing and supporting in India today?
- How significant are these RTI-related projects and programmes in each organisations overall India portfolio?
- What is the total amount being spent by international donors to support and strengthen the RTI regime in India? How does this compare with the Indian Government's own spending on this issue?

Methodology

Much of the research for this paper will be conducted through a careful desk review of the disclosure policies and practices of these international donors. This will be complemented by face-to-face interviews with key stakeholders, including international donors' governance and accountability advisors in India, Government officials, beneficiaries, and members of the public. A questionnaire is being developed to guide these interviews, and to facilitate comparison across organisations.