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## 30<sup>th</sup> Anniversary of the Federal Access to Information Act

Thirty years ago today, on 28 June 1982, Canada adopted the Access to Information Act, recognising the right of citizens to access information held by government. This progressive and hugely important step placed Canada among a small vanguard of nations that have recognised the right to information, a right that fundamentally underpins a healthy democratic system.

*“Canada was a leader on this core democratic issue thirty years ago,”* said Toby Mendel, Executive Director of the Centre for Law and Democracy. *“But we have failed to keep pace with international developments, so that Canada has fallen to 51<sup>st</sup> place globally, behind many developing countries, as well as the United States, the United Kingdom, Australia and New Zealand.”*

In the decades since 1982 the number of countries with right to information laws has grown from ten to more than ninety, covering some 5.5 billion people in every region of the world. International courts have recognised a human right to information and accepted better practices have emerged. Bureaucracies in countries like Bulgaria, India and Mexico have undergone fundamental transformations in terms of openness.

In Canada, the picture has been one of stagnation and even backsliding. Despite repeated calls for reform, the Access to Information Act remains largely the same. Two former Information Commissioners, John Grace (1990-1998) and John Reid (1998-2006), both used the expression “culture of secrecy” to describe the prevailing attitude within Canada’s governmental apparatus.

It is now time for Canada to regain its status as a leading global democracy by prioritising fundamental reform of the Access to Information Act. In its Action Plan for the Open Government Partnership (OGP – a group of countries that have committed to become more open and participatory), the government is proposing to enable electronic requests for information, something that is already available in not only wealthy democracies but also in many developing countries. This is simply not enough. It is time to bring Canada’s access framework into the 21<sup>st</sup> century.

The assessment of all national right to information laws is available at: [http://www.law-democracy.org/?page\\_id=1114](http://www.law-democracy.org/?page_id=1114).

***For further information, please contact:***

Michael Karanicolas  
Legal Officer  
Centre for Law and Democracy  
email: [michael@law-democracy.org](mailto:michael@law-democracy.org)  
tel: +1 902 448-5290  
[www.law-democracy.org](http://www.law-democracy.org)

## **More information on Canada's Access to Information Act**

Over the past decades there have been several failed attempts at reform of the Access to Information Act, beginning with a comprehensive review in 1986-87 that presented over 100 recommendations for how the law should be changed. Various other Parliamentary committees and private members bills have also attempted to improve the Access to Information Act, but have had difficulty gaining traction. Instead, in 2001 the federal government passed an amendment adding an additional layer of secrecy to the law.

Among the biggest problems with the Access to Information Act are:

- The limited scope of the Act, which does not cover the legislature and judiciary and which does not allow non-citizens to make requests.
- A lack of binding timelines for responding to access requests.
- A lack of appropriate controls over access fees, which should be limited to the actual costs incurred in reproducing and delivering the information.
- The blanket exception for Cabinet and Committees.
- The long list of secrecy provisions in other laws which override the provisions of the Act.
- An overly broad regime of exceptions, including several exceptions which are not found in other laws, a number of exceptions which are not based on preventing harm to legitimate interests, and the lack of a proper public interest override for many of the exceptions.
- The lack of binding decision-making powers and the absence of any promotional role for the Information Commissioner.