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Still room to improve on FOI laws, says survey

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AUSTRALIA'S freedom of information law has been ranked 39th among 89 countries in the first study comparing the adequacy of different laws designed to open up the workings of government.

The 30-year-old Commonwealth FOI Act was radically overhauled in 2009 and last year, and scored 85 out of a possible 150 points in a joint European and Canadian study that assessed 61 indicators for each country's law. The Right to Information survey released last week looked only at the laws themselves, not at how well they work in

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practice, which explains some surprising results.

Australia was ranked close to the middle of the pack, just ahead of Canada on 85 points and behind the US on 89, New Zealand on 93, and Britain on 95, but way behind the table leaders Serbia on 135, and India and Slovenia on 130.

At the other end were countries including Sweden and Norway that are widely regarded as having some of the most open governments providing the easiest access to information.

Johan Lidberg, a senior lecturer in journalism at Monash University who worked on the study by Access Info Europe (Spain) and the Centre for Law and Democracy (Canada), said the low rankings for Sweden and Norway reflected the adequacy of their laws, not how FOI worked in practice.

A breakdown of Australia's score showed the FOI Act received 2/6 for right of access, 10/30 for scope, 21/30 for requesting procedures, 15/30 for exceptions and refusals, 24/30 for appeals, 4/8 for sanctions and protections and 10/16 for promotional measures.

Countries with much higher scores than Australia had new laws containing strong pro-disclosure provisions, usually with a default setting that said governments make everything public, Dr Lidberg said.

"It's also common for those laws to have a really simple request process, including verbal requests, and have a simple appeal system to an information commissioner or ombudsman that's not costly and has no application fees and no processing fees," he said.

The Sydney FOI expert Peter Timmins said that while the



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recent amendments to the Australian FOI law had improved it, he was not surprised by the results as Australia had not undertaken a comprehensive review, or adopted emerging Australian best practice in a number of areas when it amended its law.

The reasons Australia had been marked down included the fact there was no constitutional right of access to information, and the Parliament and parliamentary departments were not covered by the law, Mr Timmins said.

Other weaknesses included the fact that intelligence agencies were not covered, there was no public interest override and no sanctions for improper public service employee conduct such as undermining the act or destroying documents.

A report from Ottawa, where the Right to Information report was released, said Australia's information commissioner, John McMillan, had "an 'uneasy feeling' that the Right to Information ratings methodologies have a bias based on their creation by civil society groups".

Mr Timmins said that while that might be so, "governments generally have done little to stimulate or lead debate about best practice law or standards" and the report was a good attempt by groups to redress that.

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