

## UN Model Law

## 2.6.1. Introduction

"...The subject of statistical legislation can be reduced to two major issues: the compulsory aspect, that is, the power the government asserts through the statistical agency to collect data; and the guarantees it provides for safeguarding the confidentiality of the information collected from individual respondents..."

Handbook Rev. 1 [22].

Laws regarding statistical agencies have largely similar connotations, though the wording may differ: The state (or the government, or the people's assembly etc.) grants certain rights to a body hereinafter designated as a statistical agency. This body's organic structure is explicitly laid out, including the requirements for the person at its head; the constraints under which it is supposed to operate; and the accountability that prevents it from abusing its rights or acting arbitrarily. The law dictates what the statistical agency is expected to do with the information respondents submit to it, and for which it is accountable. The community of respondents is asked to comply with the statistical agency's demands for information so long as they can be justified in the name of the objectives set by the law. In exchange for intrusion upon privacy rights, the statistical agency is required to safeguard respondents' information. If the agency breaks this commitment, its officers are subject to certain sanctions. If respondents do not comply, they too are subject to certain sanctions. While laws differ from each other in length, style, detail, and scope, if they do not cover the fundamental points outlined above, they are incomplete.

The Handbook includes an exhaustive list of subjects that may be covered by the law. Consulting the Handbook in this regard is worthwhile, partly as a matter of historical interest and partly because some heads of agency may still find it useful as a checklist if they entertain any wishes to get their own law changed. Appendix II contains a "model" statistical law.

## 2.6.2. Main Actors

Usually the law defines the main actors and their rights and accountabilities. In the case of the legal provisions for an official statistical activity, to be referred to as a Statistics Act, those actors are:

- the minister;
- the chief statistician;
- the statistical agency and its staff; and
- the agency responsible for the coordination of the statistical system
- the respondents.

The Statistics Act will also define a set of relationships with other bodies that could include:

- other government offices;
- international or supranational[23] institutions;
- professional societies; and
- trade and other associations incidental statistical activity.

And in the case of countries with Federal constitutions:

- statistical agencies located in the governments of members of the federation; and
- other offices of governments of members of the federation.

### **2.6.3. The law: short or long**

The length of the law is initially a matter of taste, but its implications are real and subtle. A lengthy law stems from the desire to provide it with sufficient detail to avoid political arbitrariness once it has been implemented and is acted upon. For example, specifying in detail the membership of the co-ordinating agency or of the national Statistics Council guards against its manipulation for political favours or nepotism. But the more detail is added to the law, the less it is able to adjust to changing circumstances. Naturally, environmental changes and other unforeseen circumstances would then require legal changes; there is always great difficulty in finding political interest for modifications to a Statistics Act.

There are benefits to both cursory and detailed laws. In some situations, a very generally formulated law that gives a great deal of flexibility to the statistical agency has worked well. Conversely, lengthy and painstakingly detailed laws have afforded key actors a great deal of protection. Of course, there are drawbacks in both cases as well. What this suggests is that a workable compromise between these two considerations should be found and that the success of the lawmaker lies in getting the compromise right. Nothing concrete can be said on the subject in a generic way.

### **2.6.4. The law: deterrence and enforcement**

Legal power to demand response, accompanied by legal sanction for failure to respond, can do much to ensure high response rates that in turn are essential for the overall quality of statistics. But the matter is not as simple as that. In fact, the existence of legal powers to ensure compliance inherently serves as a formal deterrent. In most countries where such powers are well defined in law, the statistical agency has never used them or else has used them very, very occasionally.

Today the usual pattern is to operate a mixed system - tacitly or openly. There are various forms of mixing options. One is to regard all inquiries from enterprises as compulsory and the law may as well be unambiguous on this matter. At the same time, all surveys of persons or households are regarded as voluntary. Whether this is openly stated or only if challenged depends much on the political and legal environment and the way the public looks upon invasions of privacy. If there is an official protector of privacy - an ombudsman for example - the chief statistician may be unwilling to risk all household inquiries for the sake of a Pyrrhic victory in any one of them. For there is no known way of legally countering a campaign of civil disobedience in matters of statistical surveying.

Whatever the system, cooperative relations will play a preponderant role in explaining response rates. But the law may be a necessary condition upon which to build such relations.

### **2.6.5. Access to information protected by other laws**

It is best if the Statistics Act makes clear provision for the statistical agency's right of access to other government data holdings. This should be done partly in the interest of streamlining government operations but, more importantly, to alleviate excessive paperwork on the part of respondents.

The right of access by the statistical agency to administrative holdings of information useful for statistical purposes should be explicitly recognized as an exception in the legislation that protects such holdings or in general, administrative registers. An ideal state of affairs is one of reciprocity, where the statistical legislation lays down the rights and conditions of access and the specific legislation that protects administrative holdings wherever they may be within government recognizes as an exception the right of access by the statistical agency for statistical purposes.

#### **2.6.6. Legal advice**

Even though the structure and content of a Statistics Act should be straightforward, a chief statistician should have access to legal advice, preferably a specialized legal adviser, expert in the interpretation of the Statistics Act and in the treatment of its various exceptions. The legal adviser will be of inordinate value in cases of conflict between the Statistics Act's provisions for rights of access and the formal restrictions embodied in other Acts.

#### **2.6.7 Special legal arrangements in decentralized systems**

In the case of decentralized systems, there is a need for the statistical act to apply to all the members of the statistical system. For example, if there is a statistical agency or a research department within the Central Bank, is its legal authority to collect data from other banks determined by the general authority of the Central Bank or by a specific law or regulation authorizing the responsible department to collect supplementary information for statistical purposes? If there are discrete statistical agencies in the Ministries of Transportation, Agriculture, Public Works, Interior and so on, what are their legal rights and restrictions in terms of collection, access to micro-data, and form in which individual records are stored and accessed? How does the central statistical agency decide whether the particular cell is or should be a bona fide member of the statistical system? In an ideal state of affairs the following are minimum legal provisions:

- all members of a statistical system should have a legal basis for their collection operations;
- all members should have provisions defining their legitimacy, accountability, obligation to hold individual information in trust, and sanctions if those obligations are not heeded;
- all members should recognize the form in which individual information can move from one to the other be shared for purposes of statistical integration and generally for effective analytical work;
- provisions acknowledging the need for, and definition of, statistical coordination, as well as guidelines on how it is carried out.

### **2.7. Financing the statistical system**

In this chapter we will look at finance from a general perspective: who should bear the financial burden of producing statistics? The subject was glossed over in the two previous versions of the Handbook, probably because it was felt that the issue was no major concern to the international statistical community. However, things have changed. It is now generally felt that adequate funding of statistics is a key issue in sustained statistical capacity building across the globe. Of course, there will always be debate on what 'adequate' means and even in developed countries there are ongoing budgetary pressures that make priority setting in statistical programmes an everyday fact of life. Nevertheless, few

will argue that, in general terms, the funding of statistics in developed countries is inadequate. The situation is entirely different, on the other hand, in developing and so-called 'transition' countries.

On a philosophical level, there has been some discussion on the financial burden and proper allocation of the cost of official statistics. Basically, there are two polar views (and of course a wide range of practices that mix the two extremes):

- Government pays for information which is either needed for decision making, is a public good or is needed to inform the electorate and provides this information free of charge to the public (or at most at the marginal cost of dissemination), or
- Information should be collected (and paid for by the government) primarily because government needs it for its own business and the costs of collecting, processing and disseminating any other information should be borne by the user.

Something of a watershed in this discussion has been the Rayner Report[24] in the United Kingdom, but it should be noted that the latter view (which is the gist of this report) has since fallen out of favour, because it is incompatible with the principles of political transparency and accountability[25]. However, some other views of the Rayner Report have since been adopted by some offices, for example that the introduction of payments between departments is one mechanism for improving the allocation of resources. It should be recognized that these discussions are mostly relevant for countries where the use of statistics is firmly anchored in tradition, where the community of quantitative analysis both in and outside the government is considerable, where political decisions are largely evidence based and statistics are an integral part of this evidence and where allocation of funds and transfers among parts of the community are driven by statistical measures.

### **2.7.1. Sources of finance**

On a more practical level it is useful, first of all, to look at the two main sources for the financing of official statistics, which are:

- Appropriations through the government budget, both for the central statistical agency (if there is any) and for 'statistical cells' in ministries.
- Revenue that statistical offices generate by selling products and services at market prices.

Overwhelmingly, the first source is far more important than the second. Few statistical offices generate more than 10-20% of their 'income' from sales. In addition, in quite a few countries, the revenue that statistical offices generate, cannot be used for their own operations, but goes directly to the Treasury.

Some of the main financing issues that are on today's agenda are:

- What information is placed in the public domain free of charge or at the marginal cost of dissemination and what information will be provided at a cost?
- If information is provided at a cost, what should the charges be based on? How does an agency guard against abusing its monopoly powers?
- Should charges apply to intra-governmental purchases/sales of special information?

These questions have been complicated by the fact that conventional publications are no longer the main vehicle for the dissemination of statistics, but rather the CD-

ROM or indeed the statistical agency's web site on the Internet.

### **2.7.2. Financing through government budgets**

The process of securing sufficient government funding for statistical organizations may on the one hand be very country specific, on the other hand there are many similarities in the procedures that are actually followed. First of all, it is important that funding is based on clear, systematic, transparent multi-annual and annual work programs. In some countries, particularly in developing and transition countries, it is also important that a long term 'masterplan'[26] is developed and promulgated in the appropriate government circles. Secondly, it is of course vital that the statistical agency (or agencies) mobilises sufficient political support from their user community. A Statistics Council may also be an important instrument to achieve such support. Thirdly, it is very helpful to secure funding if the statistical agency is seen as a well-managed organization that is proficient in planning, cost-accounting and in producing clear management reports that show progress, income and expenditure, under- and overspending etc.

### **2.7.3. Market Pricing of goods and services**

There are several considerations in favour of allowing a statistical agency to supplement its budget by the sale of goods and services at market prices.

Two key definitions:

- Goods, or "information products" are self-contained arrays of quantitative information, with or without interpretation, which can be stored for future retrieval. The medium in which these arrays are recorded is immaterial. Thus, examples of "goods" include a Yearbook of National Accounts; a CD-ROM with the Standard Industrial Classification; and tables on exports and imports by commodity groupings downloadable from a web site.
- Services are activities carried out by the statistical agency to create a statistical information product. Examples of "services" include providing an algorithm for the selection of a sample of small businesses from a shared register; testing whether a particular table contains residual disclosure; and testing whether a time series meets a set of conditions that makes it eligible for seasonal adjustment.

First of all, this gives some assurance that the entire community is not funding a specialized commodity that is only of interest to a select number of users. Secondly, by allowing statistical agencies to keep the proceeds of its sales of services, one ensures that unused capacity is taken advantage of which is preferable to leaving it unused and having the user organization develop its own survey capacity, with all the duplication of efforts this could represent. Thirdly, it may promote a user-oriented culture in statistical organizations.

## **Conclusions**

An examination of the classification of statistical systems favours the creation of a stand-alone Institute or Bureau. It is better to attach a recognizable name to the production of official statistics than to disseminate them anonymously or too discreetly. In recent years, budgetary problems affecting central governments have necessitated structures in which the effective co-ordinating power lies in the hands of research departments of Central Banks.

There is no question that concentration and critical mass provide opportunities and means of action that dispersion or fragmentation hinder. Even so, the expense and legal impediments related to the process (as distinct from the state) of centralization may be such that its feasibility is improbable. In those cases where the head of a central statistical agency is thwarted in his/her attempts to reduce the fragmentation of the system, but wants to get the most from co-ordination, there are several tools, all of which can be tried in some degree. They include in addition to mobilizing political support:

- the creation of a National Statistical Council
- the co-ordination of budgetary allocations for statistical activities
- the management of the corps of statisticians in the public sector
- the international exchange of staff
- data collection approval
- international standards

Strong leadership is key to the effective performance of a modern statistical agency. In order to attract good leadership, the job must have the right status. Chief Statisticians must demonstrate their objectivity and impartiality by acting independently of political controversy, but at the same time must maintain close contact with their peers in other Ministries. Chief statisticians must display a rare combination of professional and managerial talents, although the proportions of each will vary according to the objective situation. Governments must not appear to be frivolous or arbitrary in demanding that the chief statistician resign if need arises, but they must not allow the continuation of a state of affairs in which energy and inventiveness have long been exhausted. Lastly, the capacity of a chief statistician can be augmented through intensive contacts with his/her peers abroad. Securing stable (and in the case of developing countries: increased) financing for statistics is an important responsibility for the chief statistician. To obtain political support for stable finances, setting up sound planning instruments (such as annual and long-term work programmes) are helpful, as well as promoting the image of statistical offices as well-managed organizations.

- [1] Handbook of Statistical Organization, Studies in Methods, Series F No. 6, United Nations, New York pp. 11 et seq.
- [2] Handbook of Statistical Organization, Studies in Methods, Series F, No. 28, United Nations, pp. 14 et seq.
- [3] Examples that have come to light include printing and disseminating; document storage and retrieval; data entry; systems analysis; and collecting consumer prices.
- [4] Op. cit. p. 10 et seq.
- [5] Neither version of the Handbook discusses a situation in which the Central Bank co-ordinates economic statistics because it compiles the national accounts and provides the means for most innovative statistical activities. However, because the Central Bank does not have the legitimacy of the central statistical agency when it comes to defining statistical standards, adopting questionnaires and nomenclatures, and discussing internationally with statistical counterparts, its capacity to co-ordinate is limited. We will consider this further in Section 2.3.7.
- [6] P. 21.
- [7] Some have argued that a budgetary recognition is a mixed blessing. At times it protects the statistical system from arbitrary reductions imposed by

- Ministers with different ideas about national priorities. As a simple directorate, unmentioned in the public accounts, a system may escape from excessive reductions at times when the budgetary trend is strongly on the downswing.
- [8] This happens very frequently with Ministries of Agriculture both because their concerns are specialized and because they may employ a network of extension agents who have the right training to undertake statistical fieldwork.
  - [9] Official records of the Economic and Social Council, Sixty - second session, Supplement No. 2 (E/5910), para 138. Quoted in Handbook Rev. 1
  - [10] Handbook Rev. 1, p. 21
  - [11] In fact even when there is a centralized system, it may be difficult to assert who the chief statistician is because of the existence of coordinating boards.
  - [12] The designation "Minister" is short hand for a variety of cabinet officers. In certain cases it is the Head of Government who retains responsibility for the statistical agency. In some Latin American countries, it is the Vice-President.
  - [13] There are many variations on this practice. For example, there might be no chance for term renewal; only one renewal; or as many renewals as the nominating authority sees fit.
  - [14] In certain countries this could be Parliament. In others, the Prime Minister, the Minister responsible, or even the top civil servant acting with the delegated authority of, for example, the Prime Minister
  - [15] Admittedly there may be a problem in situations where the head of the Research Department of the Central Bank happens to be the country's chief economic accountant, responsible for its national and government accounts, its balance of payments, and the measure of the country's international investment position. International cooperation with other chief national accountants may be conducted via the International Monetary Fund and involve a different cast of characters. The position of the Chief statistician on these matters will have to be clarified in a manner consonant with the importance and the dignity of the post. An unacceptable alternative would be to deal with two discrete compartments.
  - [16] Pp. 12 and 13
  - [17] The following though is an example of the constitution of a fairly typical advisory structure: "...An Advisory Committee will advise the Director on the statistical work of the Office, on annual corporate targets and on his responsibilities as Head of the Government Statistical service..." ONS, Framework Document, UK.
  - [18] Even though the presiding body is indicated as National Statistics Council in all three cases, in fact its role - as suggested in the Handbook ranges all the way from a Board of Directors to that of an Advisory Board.
  - [19] The Australian Bureau of Statistics Act (1975) has the Australian Statistics Advisory Council written into the Law. It specifies that the functions of the Council are to "...advise the Minister and the Statistician in relation to...(a) the improvement, extension and co-ordination of statistical series provided for public purposes in Australia; (b) annual and longer term priorities and programs of work that should be adopted in relation to major aspects of the provision of these statistical services..."
  - [20] The use of the term Committee here should not be confused with the prevalent use of the word Committee in CIS countries to devote the central statistical agency.
  - [21] Sometimes such committees report to the statistical agency, in other cases to the Statistics Council. E.g. in The Netherlands the Central Commission for Statistics has about 25 standing advisory committees for a wide range of subject matter areas.
  - [22] Pp. 36 et seq

- [23] In the case of European Union member countries, the law helps to define how their work is impacted by Council regulations, Directives, and Decisions.
- [24] Report to the Prime Minister by Sir Derek Rayner, London 1980. See also "Government Statistical Services", a Report to Parliament, London, 1981, p.15.
- [25] In addition to the Rayner report there are a number of other important reports that include an examination of how statistical systems work in a number of countries. For example, the Moser Reports for Canada and Italy; the Bonnen report for the United States; the scrutiny report of the UK 1990, the GAO report on the US national accounts. While the objectives and scope of these reports are very different, even a superficial review of their contents is an invaluable source of information on comparative organizational techniques. See bibliographic references at the end of the Handbook.
- [26] In the cooperation programmes of the European Union, such a 'masterplan' is usually called MISP, Multi-annual Integrated Statistical Programme.