

Inclusion in Civil Service: Issues and Initiatives

-B N Poudel¹

The civil service is frequently the first choice of young university graduates in Nepal. There are still many 'best-in-class' men and women in the service. But public goods are not commensurate to the expectations of the people. Why?

The real reform starts with a search for meaning to people; reforming only systems is a wrong way to go.

From Systems to People

Systems-centred	People-centred
• Maximum possible specifications	• Minimum critical specifications
• Close-to-zero discretionary power	• Reasonable discretionary power
• Emphasis on external control	• Emphasis on internal control
• Independent evaluation	• Self-evaluation
• Search for uniformity	• Search for diversity
• Discouragement of mistakes	• Encouragement of mistakes
• Single-loop learning	• Double-loop learning ²

So the way out of the current administrative quandary is towards people. This does not mean ignoring administrative procedures, transparency requirements and all other conditions of democratic governance. Indeed, it means fulfilling them more than ever by creating a sufficient leading space, not least by enabling leaders to reach out to people who are capable but forced to live with the 'isolationism' of the systems-based management.

1. Policy and Legal Provisions for Inclusive civil Service

Inclusive policy in Nepal has often been a response to the demand by women and other marginalized groups for a role in national life. The demand represents a legitimate fight for equality and is not new.

The Interim Constitution of Nepal, 2007 includes several gender-friendly provisions and inclusive principles, not least the fundamental right of the citizen to social justice. Article 21 states that women, Dalits, adibasi janajatis, the madheshi community, downtrodden classes, poor farmers, and workers who have lagged behind from the economic, social or educational viewpoint shall have the right to participate in the state structure based on the principle of proportionate representation.

Then, in August 2007, the second amendment to the 1992 Civil Service Act provided

¹ B N Poudel

² Argyris developed the concept of single- and double-loop learning. See Argyris, op. cit., pp. 8-10.

for reserving 45 per cent of all vacancies to be fulfilled by way of open competition and, assuming the vacancies thus reserved to be 100 per cent, fulfilling the same by way of separately-held competitions from among each of the six specified categories of candidates: Women (33 per cent), adibasi janajati (27 per cent), madheshi (22 per cent), Dalit (9 per cent), persons with disability (5 per cent) and those from the backward areas (4 per cent).

The Civil Service (Second Amendment) Act 2007 has since formed a reference for other public services and similar, if not the same, provisions have been made in security services, university services and so on.

Many factors seem to be at work in achieving representative public administration beyond the arithmetic of reservation, however. Finding them out and addressing them together should be part of the reform agenda.

2. Issues

The issues involved in representative public administration are both theoretical and practical.

a) Representation: active or passive?

Representation is understood in both active and passive terms. The passive form of representation is the mere presence of the marginalized sections of society in public bureaucracy. But the real search is active representation, or administrative responsiveness in terms of addressing the concerns of the segments of population being represented. Passive representation is, then, more following than leading. This means that people from other social groupings will also have a role to play.

b) Exclusion: social only or economic also?

Exclusion is usually regarded as social marginalization. However, years of economic deprivation can also force groups into the margins of society. Conversely, gains in economic status are often accompanied by gains in social status. So exclusion can take place either way. Focussing on the intersection is all-inclusive. It also avoids the inclusion error. Given the inclusion error, one is left with the exclusion side – and not the inclusion side – on the scale.

c) Scope: politics only or professions also?

While politicians represent people, professionals represent disciplines. Rules, such as the one third minimum everywhere, do not take cognizance of this difference. Making reservation for ensuring representation in professions is even more unusual. It only means that the way in which we tend to equate representation in bureaucracy with representation in Parliament is untenable.

d) Rationale: compensatory or organisational?

It is not clear why affirmative action is often linked to compensation for historical

discrimination. Diversity brings dynamism in the working environment. Diversity makes good teams. Diversity is also the source of creativity. It adds to the reach, resilience and even power of organisations. Organisational diversity is something to be achieved, and not something to be accepted.

e) Principle: proportionate or critical mass?

Representation pursuant to demographics is not a feasible proposition. For one thing, social groupings are not mutually exclusive; for another, it will entail reservation to an absurd extent.

Underlying both the stereotyping level of 20 per cent and the critical mass level of 30 per cent is the assumption that there is only one minority group – the rest being alike. But the assumption should hold true even when there are more than one minority groupings, or 'non-minority groupings', for that matter.

f) Reversibility: a threat or an opportunity?

The 'critical mass' level of representation will require us to reverse our policy of reservation. In addition, this means that affirmative action will have to be done away with on achieving the targeted percentage. Also, the law will have to be amended or promulgated anew on the 'sun set' line – that it will render itself void on that great day whether it comes five, seven or 10 years into the future.

3. Recommendations

The merit system itself owes its origins to the movement against the tradition of patronage, which was prevalent in the 19th century Britain. With the merit principle, the base of the civil service was considerably broadened as anyone qualified but belonging to the non-ruling class also stood an equal chance of entering it. It is a classic irony that what was once upon a time considered to be the basis of inclusion is today considered to be the basis of exclusion.

This needs rethinking. The mistaken view that meritocracy is an obstacle to representation should be corrected. Nor should we deprive ourselves of the opportunity to make our organisations more and more like our communities – with all their diversity, with all their unity and with all their resilience. We will have to explore every such possibility. If merit is gold, representation is its fragrance and that should be the vision of our 'new public service'.

The purpose of reform is to have a great civil service as Collins and Hansen would call it. Anything less than a great, exciting, meaningful civil service will not be the civil service of the young generation. Nor will it live up to the expectations of the all-inspired people in a democracy.

Isolated initiatives have not led us anywhere. The mainstream reform should be prioritized. Representative bureaucracy, especially in its active form, is certainly one of the aspects thereof.

Representation is good, reservation is not so good and meritocracy is a given for progression. So what should be done? Perhaps two options can be identified.

Option 1: Reservation for merit and consideration for diversity

This option is about maintaining the competitive dynamics of meritocracy in public administration and further encouraging them by bringing in new members in our old-like teams. The doors will be open wider with a sidewalk but the windows will be closed and everybody will be using the same staircase to walk up the stairs.

- a) Ensure meritocratic dynamics
- b) Encourage representative attributes
- c) Exclude the economically included
- d) Limit entry to initial points
- e) Avoid reservation within reservation
- f) Phase out reservation
- g) Review testing procedures
- h) Maintain high bars
- i) Escape sympathy
- j) Make all responsive

Option 2: Consideration for merit and reservation for diversity

Consideration for merit is only theoretical. The emphasis is on representation regardless of its collateral damage on performance or on organisational dynamics.

But it is also an option in that we are still in the process of restructuring the State and little is known about functional distribution among provinces and the centre in a federal democratic republic. So do some incremental improvement in the interim.

- a. **Environment:** Cultivate a culture of connecting each employee to the institution as well as encouraging collaboration, teamwork and flexibility.
- b. **Recruitment:** Initiate outreach recruitment with wide dissemination of information, possibly down to the village level, delegation of authority for collecting applications in districts, and acceptance of e-applications.
- c. **Preparatory classes:** Run preparatory classes as part of the Ministry of General Administration Programme for PSC tests specifically for candidates in those reserved categories where quotas have been unutilized for want of the minimum test scores.
- d. **Placement:** Ensure that geographical placement of expecting or breast-feeding

mothers, persons with disability, people above the age of 50 and also new entrants from the Dalit community or religious or ethnic minorities is sensitive to their specific needs.

- e. **Flexitime and flexi place:** Introduce flexitime and flexi place to a limited extent (up to two hours in the case of expecting or breast-feeding mothers and persons with disability or specific needs and staff members doing an academic course).
- f. **Office facilities:** Gradually improve the office layout, equipment and facilities to meet the specific needs of persons with disability, pregnant or breast-feeding mothers and other specific groups of employees based on approved minimum specifications.
- g. **Eligibility for pensions:** Amend the words '... such civil servant may be provided with the pension by adding a maximum of two years of service term' as '... such civil servants shall be provided with the pension by adding up to seven years of service term' in Sub-Section (1Ka) of Section 37 of the Civil Service Act 1992.
- h. **Redefinition of competencies:** Redefine competencies to include such social aspects as inclusion-friendly behaviours, integrative skills and responsiveness to minority needs, as well as disciplinary knowledge, technical skills and general professional abilities.
- i. **Training and development:** Redesign training and development activities based on an assessment of needs relative to the social competencies as mentioned in (h) above as well.
- j. **Personnel records:** Change personnel records, enabling generation of disaggregated information as well as information about specific concerns of people.
- k. **The code of conduct:** Add Section 54Gha to the Civil Service Act 1992 specifying that 'the civil servant shall remain respectful of all colleagues regardless of their sex, religion or ethnic origin and shall refrain from any stereotyping of colleagues based on their social grouping or otherwise'.
- l. **Day care centres:** As more and more women have been entering the public service, day care centres modelled on the one established in the Singha Durbar premises will have to be gradually extended to regional and district headquarters.
- m. **Power to make an exception:** Enable gender-friendly and inclusive exceptions by amending Civil Service Act.
- n. **Physical requirement and functional classification of people with disability:** The eligibility criterion for availing reservation against the vacancies reserved for the people with disability need to be defined.
- o. **Sexual harassment:** Separate guideline for sexual harassment in the workplace for civil servant is most. This guideline will incorporate definition, right and

responsibility of the employees and responsibility of the office.

- p. **Oath of office:** It is recommended that the format of oath as provisioned by civil service rules need to incorporate the content related to respecting diversity.
- q. **Career counseling:** Scale up career counseling as part of the Ministry of General Administration Programme for PSC tests specifically for candidates in reserved categories.
- r. **Substitute staff:** Make legal provisions of substitute temporary staff giving priority to reserved category candidates.
- s. **Official paper:** An official paper on inclusive public personnel policy will help convey the spirit of reform in a representative perspective, clarify the code of conduct and also dispel clouds over affirmative action.

Acknowledgement:

This is the summary of study report “Inclusion in Civil Service: Issues and Initiatives”. The study was sponsored by Project to Prepare Public Administration for State Reforms (PREPARE) under Ministry of General Administration. The study was conducted by Mr. Balananda Paudel, former Secretary of the Government of Nepal.

For presentation at the EROPA Conference on “Enhancing the Quality of Government: Government, Governability and Governance”, 14-19 November 2013, Tokyo