



Institutions of Accountability

THE PUBLIC SERVICE COMMISSION: POLICY NOTE

Sustained economic development depends significantly on the effectiveness and the efficiency of a country's bureaucracy. The experience of successful East Asian economies, e.g. South Korea, Malaysia and Singapore, attests to this (see Campos and Root 1996; World Bank 1993). Critical to the performance of the bureaucracy is a well functioning Public Service Commission (PSC), for it is this institution that promotes and safeguards the merit principle in the recruitment, promotion, and career management of public servants. Thus, it may be argued that the PSC is the ultimate source of accountability for the public bureaucracy and *de facto* a core institution of accountability.

Per the Constitution of Bangladesh, the Public Service Commission is responsible for a merit-based recruitment process for the civil service as well as for ensuring a fair, prompt and effective disciplinary action system. However, in recent years, the PSC's image has been seriously tarnished because of its excessive politicization and corruption. Partisan appointments of its Chair and Members - perceived by the public to be incompetent - have become a common phenomena. Allegations of examination question leakage and corrupt *viva voce* (candidate interviews) practices have been rampant.

To begin restoring the functionality of the PSC, the post- 11 January 2007 caretaker government appointed a new Chair and five new Members to the current eight-member panel. Under the new leadership, the PSC has initiated some reforms, such as modernizing the examination procedure and making the results available to the candidates. To strengthen the PSC's reform

initiatives that, in turn, can drive a broader reform process, the Institute of Governance Studies (IGS) aims to provide a number of policy recommendations with a view to strengthen the PSC's reform initiatives.¹ This Policy Note focuses on four issues:

Issue 1: Independence: the extent to which the PSC is autonomous from the Executive's control

Issue 2: Accountability: the extent to which the PSC can be held responsible for its decisions and actions

Issue 3: Effectiveness: the extent to which the PSC is achieving its objectives/mandates

Issue 4: Efficiency: the relative cost and implied capacity with which the PSC carries out its functions.

The recommendations are centered around two broad issues: first, the appointment of the Chair and the Members of the Commission; and second, in-built mechanisms to ensure that the PSC will be able to perform its duties within acceptable standards independent of the level of commitment of the political leadership. The policy recommendations are presented in four sections: each section identifies key problems, recommends corresponding policy changes and offers practical solutions to implement the recommended policies. All policy recommendations should be implemented

¹ IGS organized an international workshop 16-17 August 2007 to facilitate a deliberative process to formulate policy recommendations. This Policy Note is based on the workshop discussions, literature review and an empirical study conducted in the preparation for the workshop.

by enacting a comprehensive enabling act governing the PSC that would replace various ordinances, rules and regulations that currently govern the PSC. This legislation may be prepared as an ordinance now and ratified by the incoming Parliament after the elections.

Effective implementation of the policy recommendations would ensure better performance of/by the PSC and help the bureaucracy in meeting the needs of the country.

INDEPENDENCE

Dysfunctional Appointment Process of PSC Chair and Members

Article 138 of the Constitution states that the President appoints the PSC Chair and Members and that half of the members must have held the office of the republic for more than twenty years. The Constitution however does not provide detailed criteria for the appointments, nor does it specify any rules and regulations or a process for the appointments to the PSC or to any other constitutional or statutory offices. Governments in the past have taken advantage of these omissions to appoint politically aligned and not necessarily competent persons as Chair and Members to establish a partisan control over the civil service recruitment process.

Policy Recommendation: Establish a transparent process for appointments to the PSC.

To some extent, appointing persons of integrity to the PSC requires 'political will' of the party in power. However, a system can be devised to minimize opportunities for appointment of partisan or incompetent persons to key positions in the PSC. Similar mechanisms may be incorporated in the process for all high-level appointments to constitutional and statutory positions.

Clear ineligibility/disqualifying criteria should be specified in the proposed act:

Article 138 of the Bangladesh Constitution mentions very general eligibility criteria for appointing Chair/Members. Based on practices in other countries, the ineligibility criteria should be introduced to avoid ambiguity in the selection of candidates. The following persons should be barred from being appointed as Members and Chair of the PSC:

- an elected or nominated Member of Parliament (MP)
- a candidate for national or local elections
- a member of any political association
- a member of a trade union or any similar body or association
- a person with a criminal record

These policy recommendations may be included in the proposed act on the PSC.

Formation of a Search Committee:

A search committee appointed by the President or the Parliament may select competent persons to be appointed to constitutional bodies, including the PSC, based on detailed criteria. Nominations for the search committee should be free of government's interference. Members of the search committee should include i) MPs from ruling and opposition parties, ii) university professors, iii) a representative from the Bar Association, and iv) representatives from the NGO community. After the search committee proposes candidates for constitutional posts, the President would make a final appointment decision following an approval by the Parliament (Article 61 of the rules of procedure of the Parliament of Bangladesh allows the Prime Minister to initiate a 'motion for adjournment on a matter of public importance' to discuss the appointments without any constitutional amendment.) Moreover, to ensure transparency and legitimacy of the process, the Parliament may request a Special Parliamentary Committee on Constitutional Bodies to review the qualifications of nominated members with the assistance of the Anti-Corruption Commission (ACC).

Rank Differentials Among Commission Members and the Secretariat

The present Warrant of Precedence ranks the PSC Chair as an equivalent to a Secretary of the government, while Members have a rank equivalent to an Additional Secretary. By a way of contrast, the ACC Chair has a rank of a Minister. The rank number of the PSC Chair is also lower than that of the Comptroller and Auditor General. In a status-oriented, hierarchical bureaucracy, this lower status often has tangible consequences with the PSC Chair having insufficient authority to have his advice accepted by the secretaries in line ministries. Further, the PSC Secretariat's Secretary is equivalent in status to that of the Commission Members, and may be reluctant to work on the advice of members.

Policy Recommendation: Raise the ranks of the PSC Chair and Members.

The rank status of PSC Members and Chair should be raised: the Chair should be equivalent to, at least, that of a Cabinet Secretary, and the Members equivalent to that of a Secretary. ***Changing the rank status in Warrant of Precedence may be done by the Cabinet Division of the government by issuing an executive order.***

Salary of the Chair and Members

The current salary scales at the PSC are lower than the salary scales of the secretaries and additional secretaries to whom the PSC Chair and the Members are equivalent in rank. However, there is a provision that if a salary that a Member/Chair was getting from his/her last job had been higher than the consolidated amount he/she will receive at the PSC, s/he will continue to receive an amount equivalent to the last drawn salary.

Policy Recommendation: Revise pay scale.

The pay scale of the PSC Chair and Members should be revised and raised to be equal to the salaries of public officials of the equivalent rank. As it is proposed to raise the rank, the PSC Chair

should then receive a salary equal to one of the Cabinet Secretary and the Members to the Secretary. ***An amendment of 'The Members of the Bangladesh Public Service Commission (Terms and Conditions) Act, 1974' (Act No. XXI of 1974) is required to implement this recommendation and it should be included in the proposed act.***

Weak Internal Governance of the PSC Secretariat and a Dysfunctional Relationship with the Ministry of Establishment (MoE)

The MoE helps the PSC in discharging its duties. The MoE handles the deputation of the PSC Secretariat staff and determines the terms and conditions of service for the officers on deputation. The PSC has no authority in selecting officers to be posted on deputation. This system creates a 'dual governance' within the PSC: first, by managing the officers on deputation, MoE establishes its existence and visibility within the PSC; and second, if too many officers are posted on deputation, PSC's reliance on the MoE gradually increases and the MoE begins to control the PSC Secretariat.

Policy Recommendation: Give the PSC the decision authority over deputation.

In cases of posting on deputation, the PSC must be able to choose its officers. For example, for the choice of the Secretary, the PSC Chair could submit to the government a list of candidates prepared in consultation with the Members. The government would be required to appoint one person from the list within one month. Any government official from a ministry/division with rank equivalent to an Additional Secretary may be selected as the PSC's Secretary. ***Implementing this recommendation would require a revision of the rules of business and also the recruitment rules of the PSC. These revisions should be included in the proposed act.***

Lack of Financial Autonomy of the PSC

The existing financial procedure demands that the PSC formulates its own budget and submits it to the Ministry of Finance (MoF). After reviewing

the budget, the MoF allocates the money to the PSC. However, for disbursing approved allocations and its day-to-day expenses, the PSC requires constant interaction with the MoF, which allows MoF to maintain a certain degree of control over the PSC's budget. During the tenure of several Chairs, all PSC communication with the MoF had to be routed through the MoE, which made the situation even more complex. The PSC also does not have any control over its own earnings as they go to the government treasury.

Policy Recommendations: Grant the PSC some flexibility in determining and managing its budget.

The financial autonomy of the PSC may be ensured in a number of ways. One option is to provide a 'charged account' for the PSC which will be subject to parliamentary scrutiny. Another option is for the PSC to receive a lump budget (similar to the ACC budget) instead of a classified budget. It would allow the PSC's independence from the MoF on any changes in the budget. The third option is to provide the whole amount to the PSC at once, after the MoF receives the estimates and the budget is approved. Finally, in addition to the regular revenue budget allocation, the PSC should be allowed retain complete control over its own earnings to carry out research, provide its employees with adequate training, etc. To ensure accountability, the spending may be subjected to a review by the Comptroller and Auditor General. **These recommendations would require inclusion in the proposed act.**

ACCOUNTABILITY

Weak Accountability to the Legislature

Under Article 141 of the Constitution, the PSC is required to submit an annual report to the President, who would then table the report before the Parliament. The report should include a description of activities undertaken during the previous calendar year, a memorandum setting out the cases where the Commission's advice was not followed, and also the cases where the Commission ought to have been consulted

but was not. Current annual reports do not provide any real mechanism for accountability due to the dysfunction of the Parliament; the reports are never discussed or debated in the Parliament. The reporting process also has not been approached seriously by PSC itself. The quality of reports has been poor and reports from successive years have suffered from repetition of messages and issues.

Policy Recommendation: Increase parliamentary scrutiny of the PSC.

A Special Parliamentary Committee should be formed to review the annual performance of the PSC and other constitutional bodies. ***This can be done by Parliament in accordance with Section 266 of Rules of Procedure without making any changes in the rules of procedure of Parliament.***

Lack of Accountability to the Citizenry

The essence of a democracy is the accountability of government institutions to the citizens. So far, the PSC is considered a 'restricted zone' for citizens. Most citizens are not aware of what and how well the services and functions are performed by the PSC. Access to both the PSC itself and the information that the PSC holds is difficult to obtain for an ordinary citizen.

Policy Recommendation: PSC should be more proactive in information dissemination about its activities.

The PSC should arrange a press conference to launch the publication of its annual report and the Chair should discuss major activities and challenges faced by the PSC. A website should include all necessary information about the PSC, including its operations, upcoming activities, and the annual reports. As is currently being developed by a number of line departments, the PSC should have a citizen's charter clearly describing its duties and responsibilities to the public. The physical access to the PSC could also be made easier. For instance, a public information desk on its premises, staffed by appropriately qualified persons, could provide the public interface. ***These measures may be taken by the PSC itself without changing any rules.***

Lack of Accountability to Exam Candidates

Until recently, there had been no mechanism in place to hold the PSC accountable to its primary stakeholders, the candidates for civil service jobs. The examination marks and admission criteria were not disclosed to the candidates. The current PSC Chair's decision to start a convention which would allow candidates of the Bangladesh Civil Service (BCS) examination to learn about their performance is a welcome change. Other positive steps can be taken: making the results of the BCS examination available to candidates through a password operated website, making the examination scripts available and if requested reviewed by the PSC in exchange for a fee. **The PSC may implement these policies itself without changing any acts or rules.**

EFFECTIVENESS

The principal task of the PSC is to regulate public administration so that the government agencies/ministries are able to meet their respective mandates. The PSC's effectiveness can be judged, to a large extent, by the quality of personnel in the civil service. With a competent, honest, and hard working civil service, the government will be better able to deliver public goods and services.

Modernizing the BCS Examination System

One of the major duties of the PSC is to conduct examinations for prospective candidates to select the future bureaucrats of the country. This process has been the centre of criticism for a long time. The questions set for the BCS examination are not only considered to be of poor quality but they also fail to test the skills required of modern day civil servants. The contemporary examination tools such as question banks, random scrambling of questions on examination papers, and computerized marking have never been used. The BCS examination process is also extremely lengthy - it takes more than two years to complete one BCS examination cycle.

Policy Recommendation: A complete overhaul of the exam system.

A set of proposals is presented below for the complete overhaul of the existing examination system:

Improving the Conduct of the Examinations

- In place of the existing question setting process, a question bank can be created. For example, in the Philippines, the Civil Service Commission requests 200 persons from different fields to prepare at least 5,000 questions which are then divided into three classes - **easy, medium and difficult**. A computerized program selects a subset of questions from each category for the examination. Considering the brisk pace of technological development in Bangladesh, this can potentially be realized within the next few years.
- To enable the exam process to be completed within one year, the eligibility requirements should be raised, e.g. educational attainment of at least two first class/division, and a significant increase of the passing mark for the general written examinations from the current 45 percent benchmark.
- For the immediate term, outsourcing of the BCS examination could be considered. The PSC can set criteria for conduct of the examinations and, following a transparent bidding process, contract one or more providers to carry out and manage the examination process.

Better Tailoring of the Examinations

Since the 27th BCS examination in 2005, the PSC has eliminated the choosing of optional subjects and has introduced some uniformity in the examinations. While these are positive developments, several other modifications to bring even greater uniformity and more objectivity in selecting the most competent candidates might be considered:

- As the BCS examinations are conducted to recruit first class gazetted officers, they should be structured to assess candidates' managerial skills more effectively. One option is to introduce a new requirement that evaluates managerial skills through logical reasoning such as reading of a case study followed by a set of questions.
- Make academic performance a common/uniform criterion for both the general and the professional cadres. The current practice is to apply this only to the latter.

Another major problem of the existing BCS examination is that it does not take into consideration the need for specialization of different cadres. This frequently results in a mismatch between the skills needed for a job and the candidates selected. One way to solve this problem is through the introduction of a cadre-based examination system.

- Candidates should clearly specify his/her preferred cadres (maximum of three) in the application form. Candidates who apply for a cadre without having adequate educational specialization will have to sit for an additional cadre-specific examination. The cadre-switch examination option will not be applicable for candidates to technical cadres which require specialized academic backgrounds (medical doctors, engineers etc.).

To implement many of the above policies, the Bangladesh Civil Service Recruitment Rules, 1981 and the Bangladesh Civil Service Recruitment (Age, Qualification and Examination for Direct Recruitment) Rules, 1982 will need to be amended.

Interview Board

The BCS examination includes a viva voce (interview component). The PSC forms multiple viva boards that include PSC Chair/Members as well as academics, civil servants, and other qualified members of civil society and the private sector. Prior to the reconstitution of the PSC, these boards had been accused of being

a major source of corruption and humiliation/harassment of the candidates.

Policy Recommendation: Develop interview manual.

An interview manual could be developed to specify acceptable viva voce board behavior in dealing with the candidates, types of questions that can and cannot be asked, etc. For the longer term, the PSC might consider having a single viva board. With an increase of the eligibility criteria and the passing mark for the general exams, the number of candidates for viva will significantly decrease so that a single board will likely suffice.

Recruitment of Personnel into BCS through the Quota System

A faulty quota system has become a significant obstacle in recruiting competent persons to the civil service. According to the present policy, only 45 percent of new BCS staff recruitment is strictly merit-based while the majority joins through a complex quota system. The system includes special provisions for minorities, children of freedom fighters, and district representation, among others. Practically all research and analyses of the civil service have recommended a modification of the present system (TIB 2007; Khan 2005).

Policy Recommendation: Review and revise the quota system.

The Freedom Fighters children's quota should be abolished and a study conducted to determine whether the quota system is still needed and, if so, under what conditions.²

Irregularities in Disciplinary Matters

According to the Government Servants (Discipline & Appeal) Rules, 1985, the PSC is to be consulted before taking any major disciplinary

² The PSC asked the World Bank to conduct an extensive study of the quota system and to recommend changes. To implement any changes to the policy, the Quota Reservation Policy (1997) will have to be amended.

action against a government servant. However, the rule does not specify the timeframe within which the PSC has to send the concerned ministry its recommendations. This deficiency has opened avenues for corruption.

Policy Recommendation: Tighten the existing rules on disciplinary matters.

The rule should be amended to specify that the PSC must send its recommendation to the concerned ministry/division within fifteen days of receiving a disciplinary case.

EFFICIENCY

The efficiency of the PSC depends on the quality of its own personnel. If a more qualified and competent staff is hired, the institution is better able to perform its function.

Practice of Deputation within the PSC: from Deputation to De-motivation

Whenever any official comes via deputation, he/she reduces the chances of promotion of the PSC's in-house employees and thus affects the motivation of in-house staff. However, it is the lack of adequate skills and knowledge among the in-house PSC employees (i.e., the Secretariat staff) that drives the Commission to seek deputation from other government agencies.

Policy Recommendation: Recruit high quality staff to the PSC.

Appropriate changes in the policy and process of recruitment and promotion of the PSC staff are necessary. These changes will facilitate bringing competent personnel into the PSC Secretariat.

CONCLUSION

The present caretaker government has demonstrated considerable commitment to reforming the PSC and making it more effective. However, the caretaker government should not

be expected to – indeed will not be able to – fix all the problems of the Public Service Commission. After an elected government comes to power, it is conceivable that its commitment to PSC reform may not be as strong. In this Policy Note, certain structural changes within the PSC are proposed to allow this institution to function reasonably well even if commitment to reform of next, or any subsequent, government is weak.

FOR FURTHER READING:

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