

**Local Governance Personnel System:
A Case of Nepal**

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Abstract

Nepal has a two-tier local governance system. These two tiers are the village/urban level tier and district level tier. Within these tiers, an estimated 44,000 employees are currently working. Broadly, they could be divided into government employees, specific program related employees and local government bodies (LGBs) employees. The government employees are governed by the Civil Service Act of 1993 and the Civil Service Rules of 1994. The LGBs employees are governed by the Local Self Governance Act (LSGA) of 1999 and the Local Self Governance Rules (LSGR) of 1999. The program related staff are governed by the program concerned. Compared to the national government employees, the size of LGBs employees is large, pegged at 78% of the total employees employed by the government.

However, the LGBs employees have limited career development opportunities, fewer facilities, lack of capacity development prospects, and are less privileged. As such, the personnel management system of the LGB employees is yet to be institutionalized. In addition, there is need for separate legal instruments for the LGBs to address specific rural and urban problems including the management of the staff associated with the rural or urban related LGBs. Furthermore, there is a need for a much closer linkage among the LGBs, training institutions, and the government ministry that is mandated to look after the LGBs including their employee's related matters.

Introduction

Elected officials of a local governance body have a fixed tenure, for example for a period of five years. They come from various backgrounds (i.e., politics) and they need professional support and assistance to run and manage the affairs of the local government bodies. The late Prof. Henry Maddick (1963), a known scholar in the field of local governance, writes that “the staff is the spinal cord of the whole organization and success or failure local government will almost certainly turn upon its quality” (P. 179). The quality of staff is very much dependent upon how the staff is recruited, how their career development, including retention, is determined, what type of capacity development program (training and studies) is designed and implemented and the type of reward system for them is put in place. These are applicable to the personnel associated with the local government bodies (LGBs), village or urban level, and district (sub national) level bodies, in Nepal too.

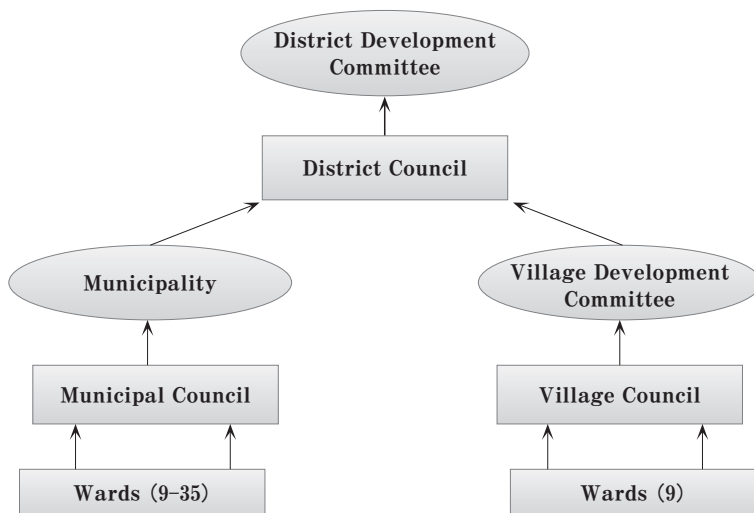
The objective of this chapter is to discuss the personnel management system of the Nepalese LGBs — Village Development Committee (VDC), municipality, and District Development Committee (DDC) — from the de-jure and de-facto perspectives along with some propositions for improvement, while doing so, a brief account

of the organizational structure and powers and functions of the VDC, municipality, and DDC is also provided.

The de-jure situation is discussed on the basis of prevailing laws and other government-published documents. For finding out the de-facto situation and propositions for improvements in the current state of affairs, interactions were carried out with officials of the Ministry of Federal Affairs and Local Development (MoFALD), DDC Kathmandu, Kathmandu Metropolitan City (KMC), then Jorpati VDC of Kathmandu, LGB Employees' Associations, Officials of the Training Academies.

I. Brief Account of the Local Government System

There is a two tier local governance system in Nepal. The village/urban level at the local level and the district level at the sub national level. Until recently, the LGBs in Nepal were comprised of 3,915 VDCs, 58 municipalities (including one metropolitan and 4 sub-metropolitan cities),¹ and 75 DDCs. They are institutionally linked with each other as shown in Chart 1. The organizational structures of these bodies, their powers, functions and financial sources, their planning responsibilities, their administrative structure, personnel management system and relationship with the government of Nepal are prescribed by the Local Self Governance Act of 1999 (LSGA) and Local Self Governance Rules of 1999 (LSGR) and Local Self Governance (Financial Administration) Rules of 2007 (LSGFAR).



Note: For the purpose of election to the District Development Committee a district is divided into various Ilakas (Areas) and from each Ilaka there is representation in the District Development Committee.

Chart 1 Institutional Relationship between Local Governance Bodies (LGBs)

As per LSGA, the LGBs are to be run by the elected office-bearers with the support of a secretary and other professional and administrative staff. The law prescribes for universal adult franchise for the election to the grass roots-level LGBs;

VDC/municipality; and the indirect election system for the election to the district-level body or DDC.

From the point of view of organizational structure, the LSGA provides for two bodies — deliberative and executive organs for each of the LGBs. In the case of the VDC, Village Council (VC) is the deliberative body and VDC is the executive body. In the case of the municipality, Municipal Council (MC) is the deliberative body and municipality is the Executive body. In the same manner, in the case of the district level body, the District Council (DC) is the deliberative body and DDC is the executive body.

In addition, the LSGA has a provision for an elected body comprised of five members (Ward Chairperson and four others including one woman) at the settlement level, i.e. Ward Level Committee at the VDC and municipality. They are to be elected by the voters falling within the respective ward² based on universal adult franchise. The term of office of a Member of the LGBs shall be of five years. The last elections to the LGBs were held in 1997. The five years tenure of the elected officials expired in 2002. Since then, no elections have been held for these bodies. There are several reasons and the main reason is the decade long — 1996 to 2006 — armed insurgency raised by the Communist Party of Nepal, Maoist (CPN Maoist). Another would be the reluctance of the political parties to seek fresh people's mandate for these bodies on the plea of the continued political transition since 2006 when the CPN Moist came into main stream politics. Another important reason is the ongoing constitution-making process through the constituent assembly (CA),³ as there may be changes in the structure of the LGBs once a new constitution is adopted by this body. Currently, the LGBs are run and managed by the government employees—the VDC Secretary in case of the VDC, the Chief Executive Officer (CEO) in case of the municipality and Local Development Officer (LDO) in case of the DDC.

Sections 28, 94, and 189 of the LSGA lay down the functions, duties, and powers of VDCs, municipalities, and DDCs in detail. In the list, one would hardly find any activity that has been left out from the purview of the LGBs. If the LGBs performed all the delineated functions; there would hardly be any function left to the government ministries and department to perform at the local level.

As to the specific functions, the VDC has been entrusted with the responsibility of performing 48 types of functions under 11 headings;⁴ for municipalities, 68 functions under nine headings;⁵ and 48 functions under 16 headings⁶ to the DDC. Along with the identification of the functions for each of the LGBs, the LGSA has identified sources of incomes too for the VDC, municipality and DDC. They include both the internal sources and external sources. The internal sources include tax, service charge; fees and earnings from sales while the external sources mainly comprise of grants from the government.

II. Types of Personnel in the LGBs and Their Personnel Management System

An estimated 44,000 positions/employees of different types are working in the

LGBs. Broadly, they can be divided into three categories. First, government employees (members of the civil service cadre) posted in the LGBs. The second group belongs to specific project related staff including those of the Local Governance and Community Development Programme (LGCDP) related staff. The third group belongs to those employees of the LGBs (local government employees) including the positions approved by the government for providing the administrative grant to the DDC.

A. Government Employees Posted in the LGBs and their Personnel Administration

The LSGA states that Government shall appoint a Secretary to carry out the day-to-day functions of the Local Body (Article 253). In other words, the power of assigning its employee (member of the civil service cadre) to work as the secretary of the LGB has been retained by the government. In addition, a LGB can request the government to deputize any employee of the Government to carry out its delineated functions (Article 256).

As per Article 253 of LSGA, the government must send or makes the posting of its employees to the LGBs until the Local Service is constituted through law. Due to this provision, government employees are posted as the VDC Secretary to a VDC, as the CEO to a municipality, and as a LDO to the DDC. In addition, the government has been sending its employee to work as the Planning and Administrative Officer, Accounts Officer and Accountant and a Vital Registration Assistant at the DDC. An Accounts Officer or an Accountant is also sent to the municipality by the government.

It is worthy to mention that Nepalese civil service is hierarchal in its structure, with three groups - classless group such as office helpers, messengers etc.; the assistant level group, and the officer's level starting from Class III to Special Class through Class II and Class I (Civil Service Act, 1993 Article 4). As the civil servants belonging to the assistant as well as officer level are posted in the LGBs, the status of the employees assigned to the LGBs varies too. If the post of the LDO belonged to the Class II level officer otherwise known as middle level officer, the status of the CEO of a municipality is normally that of an officer level.⁷ However, the VDC secretary's status varies from the Assistant level II to the Officer Class III level. The status of the Planning and Administrative Officer and Accounts Officer are that of the Class III level Officer, whereas the Accountant and Vital Registration Assistant are from among the assistant level employees.

In order to provide the technical and professional support to the LGBs particularly DDC and VDC, the government has established a specialized district level office, i.e. District Technical Office (DTO), in each district. Although established as an office with separate identity, the DTO is basically the technical wing of the DDC. And its chief takes over the officiating position of the LDO whenever this position falls vacant for different reasons, such as the LDO goes on leave or sent on training etc.

Although the government employees may be working at the LGBs, their whole personnel management, i.e. placement, transfer, promotion, rewards and punish-

ment, retirement, and human resources development, is governed by the provisions of the Civil Service Act of 1993 and Civil Service Rules of 1994. The Public Service Commission of Nepal (PSC-N) executes the hiring process of government employees as per the prevailing laws, and recommends the successful candidates to the concerned ministry for appointment in the civil service. However, in case of all those government employees posted in the LGBs and DTOs, the responsibility of personnel management, i.e. transfer, training, rewards, discipline, performance evaluation, and maintenance of personnel records, lies with the MoFALD as per the guidelines laid down by the Ministry of General Administration (MoGA) based on the civil service laws. In similar manner, the Office of the Financial Comptroller manages personnel administration other than the promotion related matters of the Accounts Officer and Accountants on the basis of the civil service related laws.

Promotion of government employees is done by the government on the recommendation of the promotion committee headed by the PSC-N. Likewise, the government has to seek the advice of the PSC-N (Chapter 4 of the Civil Service Act 1993) in handing out disciplinary measures to errant employees. The retirement age of a government employee is 58 years, and upon retirement, the employee receives a lifelong pension. However, in order to be eligible for the pension, a government employee has to serve for a minimum period of 20 years.

Altogether 5,456 (4,348 posted or assigned at the LGBs plus 1,108 posted at the DTOs) government employees of different status were working at the LGBs and

Table 1A Positions Staffed by the Government Employees in the LGBs

S. No.	Position	LGB	Class	Number of Staff
1.	Local Development Officer	DDC	Officer Level II	75
2.	Planning and Administration Officer	DDC	Officer Level III	75
3.	Village Development Committee Secretary	VDC	Officer Level III	296
4.	Accounts Officer	DDC	Officer Level III	75
5.	Chief Executive Officer	Metropolis/Sub-metropolis and Municipality	Officer Level I/II/III	58
6.	Accountant	DDC	Assistant Level I	75
7.	VDC Secretary	VDC	Assistant Level I	1,843
8.	VDC Secretary	VDC	Assistant Level II	1,776
9.	Vital Registration Assistant at DDC	DDC	Assistant Level II	75
Total				4,348

Source: MoFALD

Table 1B Staff Positions in the DTOs

S. No.	Position	Class	Number of Staff
1	Chief District Engineer	Officer Class II	64
2	Engineer	Officer Class III	272
3	Sub-engineer	Assistant Level I	204
4	Assistant sub-engineer	Assistant Level II	40
5	Drinking Water Assistant Technician	Assistant Level I	68
6	Drinking Water Assistant Technician	Assistant Level II	41
7	Drinking Water Assistant Technician	Assistant Level III	40
8	Administrative Assistant (Nayab Subba)	Assistant Level I	50
9	Accountant	Assistant Level I	31
10	Typist (Nayab Subba)	Assistant Level I	75
11	Administrative assistant (Kharidar)	Assistant Level II	28
12	Assistant Accountant	Assistant Level II	45
13	Office helper		150
Total			1,108

Source: MoFALD

DTOs in the Fiscal Year (FY) 2014/15 (Table 1A and 1B).

B. Local Governance and Community Development Program (LGCDP) Supported Positions

In addition to the government employees assigned to the LGBs, officer and non-officer level staffs were hired, assigned and paid by the Local Governance and Community Development Program (LGCDP).⁸ These staffs are comprised of Social Development Program Officer at DDC and Social Mobilizer at VDC/Municipality (Table 2).

Table 2 LGCDP Staffs in the LGBs

S. No.	Position	LGB	Level	Number of Staff
1.	Social Development Program Officer	DDC	Officer	150
2.	Social Mobilizer	VDC	Non-officer	3,625
3.	Social Mobilizer	Municipality	Non-officer	403
Total				4,178

Source: LGCDP

C. *Positions Paid from the Government Administrative Grant*

In addition to the assignment of the members of the civil service cadre, the government approves some positions for DDCs every fiscal year. To pay for the salaries and allowances of the approved positions, the government provides administrative grants to DDCs. However, the approved positions are considered as LGB-positions as the entire personnel management of these positions, including the recruitment, is done in accordance with the provisions of the LSGA and LSGR. The number of approved positions in the FY 2013/14 for which the government provided the administrative grant was 1,726 positions in total (Table 3).

Table 3 Staff Positions in the DDCs paid under Government Grant

S. No.	Category	Level	Number of Staff
1.	Officer	7th	5
2.	Officer	6th	113
3.	Assistant	5th	459
4.	Assistant	4th	570
5.	Assistant	3rd	8
6.	Office helper		532
7.	Driver		39
	Total		1,726

Source: MoFALD

D. *LGB Employees and Their Personnel Management*

The LSGA empowers each LGB, its council or deliberative body, to create additional positions to meet its workload. In creating these positions, the concerned council approves the full description of the duties and functions of a specific position and provides for the expenditures required of that position, such as remuneration, allowances, provident fund, gratuity and pension etc. (Article 249). Further, the council determines whether the position is of permanent in nature or temporary, i.e.; to expire at the end of the completion of the specific tasks.

In order to streamline the personnel management system of LGB employees, the LSGA has envisaged the formation of a separate local government service (called local service in the act) along the line of the national service to be managed by a law similar to the civil service laws (Article 255). A couple of years back, the government drafted the said local service bill and conducted discussions with stakeholders; however, the law remains a bill until the present. For the meantime, Part 5 chapter 2 of LSGA and Part 5 chapters 1-5 of the LSGR of 1999 governs the management of LGB employees. LSGR prescribes in detail the process that must be followed in the recruitment of newly created position; the career development path — placement,

transfer and promotion — of the appointed employee; the facilities required for the job; code of conducts to be followed; and post-retirement facilities. In keeping with these objectives of the law, LGBs, through its council, must enact personnel management by-laws (Section 275).

The LSGR limits the power of LGB's in creating positions from Officer 6th level to the Officer 9th level and from level V to I for the assistant positions. LGBs, depending on its income source, can create position up to the 9th level, which is equivalent to the status of IIInd Class level officer in the civil service. The LGBs seem to have been creating administrative and technical positions of various levels and recruiting persons for the created positions.⁹ While different types of employees — permanent, temporary and contractual basis — are working in the LGBs as their own employees, there is no statistics about these employees. However, the Local Body Association Nepal¹⁰ and the Secretary General of the VDC Employees' Association estimated that 35,000 different types and levels of staffs are working in the LGBs across the country. Among them about 20,000 are employed in the VDCs (Table 4) and the remaining 15,000 are working in the DDCs and municipalities for which even an estimate is not available.

Table 4 Number of VDC Staff

S. No.	Position	Level	Number
1.	Assistant	Vth	700
2.	Assistant	IVth	14,000
3.	Assistant	IIIrd	1,500
4.	Office helper		3,500
	Total		19,700

Source: Officials of the Local Body Employees Association

From the above discussion, it is clear that LGBs have employees of different categories and their size is almost half of the total civil service positions. In terms of distribution, national government employees working at LGBs are pegged at 12 percent of the total LGB employees while nine percent belongs to the LGCDP project. The remaining 78 percent are staff of LGBs (Chart 2).

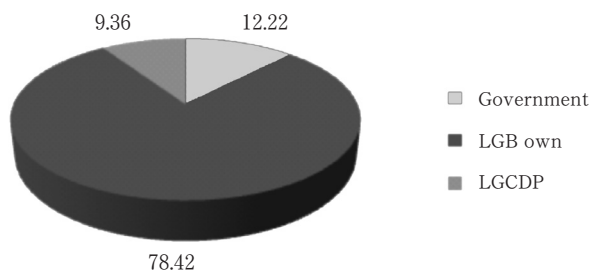


Chart 2 Composition of LGB Employee (%)

E. Capacity Development Arrangement

The LSGR obliges LGBs to arrange for pre-service and in-service training programs to improve their efficiency. For this purpose, the government has established the Local Development Training Academy (LDTA) as an autonomous body under the MoFALD. Under this academy, there is a network of training centers located in different parts of the country, such as the four rural development centers, two women development training centers and one urban development center. One of the mandates of the academy is to “develop administrative and managerial capabilities of local institutions by initiating, designing, and delivering various types of training programs based on their needs.”¹¹ The LDTA provides different types of training to the employees of LGBs funded through either GoN grant, joint sponsorship with the LGBs, or on fee basis. LDTA present training packages consist of a number of programs with a period of 3 to 35 days and on different themes (Table 5).

Table 5 Capacity Development Program Organized by LDTA

S. No.	Types of Training	Duration/ days
1.	Good governance	3
2.	Procurement plan	7
3.	Financial management	7
4.	Technical training	7
5.	Social accountability and civic oversight	3
6.	VDC operation and management (in-service training)	35
7.	Integrated plan formulation committee	2
8.	Positive thinking for social transformation	3
9.	Information and communication technology (ICT) and e-governance for DDC/Municipal Officers and VDC Secretaries	7
10.	Project cycle management training for Planning and Program Officers of DDC/Municipality	35

Source: LDTA

The LDTA also organizes trainings on themes such as inclusive governance, vital registration, environment, livelihood improvement, risks and management of natural calamity, among others. It provided training to 2,684 participants in FY 2013/14 under 32 different programs.

There is also the Nepal Administrative Staff College (NASC) mandated to provide necessary training for the employees of the Government and Public Enterprises.¹² NASC organizes pre-service training for the fresh entrants in the government service at the officer level and in-service trainings and seminars on different themes for enhancing the skills and knowledge of the public sector employees of the

country. They accommodate LGB officials at their training programs. NASC also provides specialized training program on financial accounting for the secretaries of the VDCs.

Along with the NASC, there is also a Personnel Training Academy (PTA) that is mandated to organize various training programs for the assistant level government employees.¹³ The academy has been organizing pre-service (with 10 days duration or short term training) and in-service trainings (with 30 days duration or long term training) to the assistant level employees of the government at the central and field levels. These trainings include office management including writing skill, information technology, and other contemporary issues. The VDC secretaries and assistant level employees of municipalities also participate in these kinds of trainings. In the last four years, 750 employees were trained and 60 percent of whom benefitted from long term trainings while the remaining 40 percent from short term trainings.

F. Local Bodies Employees Associations/Organizations (Trade Unions)

Unionization of public employees is an accepted practice in Nepal. Employees, up to entry-level officer (Class III level officer in the Civil Service), can be members of a recognized civil service organization or trade union of the civil servants. The government acknowledged this for the purpose of facilitating discussions regarding with and of issues affecting the civil service employees. On the other hand, the civil service employee-members consider the union as a bargaining medium to protect their interests. The LSGR also provides that “the employee of local body may form an organization subject to the provisions of prevailing laws” (264 A). Along this line, LGB employees formed their respective organizations and registered with the government under the Trade Union Act. The government granted recognition and

Table 6 LGB Employees' Associations

Name	Established Date	Date of Recognition as Trade Union	Political Affiliation
Local Bodies Employees' Association, Nepal	2005	2007	Nepali Congress and Nepal Communist Party-United Marxist and Leninist
Nepal National Employees' Organization: Local Bodies	2007	NA	United Nepal Communist Party-Maoist
Nepal Municipality Employees Association	1999	2009	Nepali Congress and Nepal Communist Party-United Marxist and Leninist
VDC Employees Association	2006	NA	Nepali Congress and Nepal Communist Party-United Marxist and Leninist

Source: Concerned LGB Employees Associations

view these unions as the representatives of the LGB employees for the purpose of bargaining and negotiations. At present, there are four LGB employees organizations and are aligned with the major political parties of Nepal (Table 6). This shows that they act as the sister organizations of the various respective political parties. Notwithstanding, they seem to be effective in putting out their views and demands before the government and have been able to empower employees of the LGBs.

III. De-facto Situation

During their existence of more than five decades, the Nepalese LGBs have grown in terms of the organizational structure and human resources. There is a separate ministry, the MoFALD, dealing with all the matters related to LGBs including personnel management of government staff other than accounts officer and accountants deputized by the government in the LGBs; and overseeing the personnel management of their employees by the LGBs as per the provisions of the LSGA and LSGR. Serving as per provisions of the LSGA and LSGR, as third party-of-interest are the National Association of Village Development Committees in Nepal (NAVIN), Municipal Association of Nepal (MuAN), and Association of District Development Committees of Nepal (ADDCN), along with trade unions of the employees associated with the LGBs. Together, they represent their causes, interests and flag out personnel management-related issues to the government through the concerned ministry. However, from the standpoint of personnel management of LGBs employees, several problems came into limelight, some of which are discussed below:

A. Personnel Management

The LSGA originally envisioned that LGBs employee positions are permanent in nature except those needed to be hired for the specific project on contract basis for a particular project. The LSGR clearly states that “the posts falling vacant in the local bodies shall be fulfilled by new appointment or by promotion.” It further laid down detailed procedures to be followed by the LGB in filling-up vacancies and recruitment of employees, all with a view to maintain transparency and inclusiveness in the recruitment. These include quota for different sections of the society for inclusiveness; academic qualification; and the process of issuance of appointment of the candidates. Likewise, it also provided the detailed procedure of hiring for contractual employees along with the duration of such appointment (Sections 213 to 217). Since the provisions of the LSGR are more or less similar to the provisions of the civil service act and rules, the prescribed procedures could hardly be challenged from the transparency point of view. Even so, it is doubtful whether the LGBs have the capacity to grasp all the detailed procedures of personnel management. Further, there is a problem of “timely recruitment for the permanent positions”. Hence, back door entry into the service of LGB is common, such as appointments based on nepotism or favoritism not based on merit.

The LSGR clearly states in Section 217 that a LGB may appoint any person in the technical post of the approved list of posts on contract for operating a new pro-

gram or project through an open competition. This is in case of employees working in the local body are not sufficient in number or the program or project requires personnel of special qualification and that such personnel is not available therein. Moreover, the local body may terminate the services of the said employee at the completion of the contract or if the performance of the said employee is not at par with what is required by the job. It also prohibits the transfer of the contractual personnel to any other post in the local body. There is no problem with this provision in the LSGR, however, those contractual appointees are hardly relieved. Take for example the case in DDC Kathmandu, they have 13 employees under the contractual arrangement and they happened to be the supporter of major political parties that are active at the national level. Those said employees are active members in the trade unions of the LGB employees and feel empowered by virtue of their association with the said trade unions. The DDC refuse to take the possible consequences that might accompany the relief of these employees, thus, the DDC continues to employ these personnel and pays their salaries and allowances through the district fund. After hanging on for some years at their job this manner, the said personnel now want to be permanent employees.

In many LGBs, the contract employees have been discharging many important duties nevertheless. Several such contract employees are working for more than even 10 years. These employees being on contract do not receive other pecuniary benefits, such as provident fund, gratuity, medical allowances, etc., received by their counterpart permanent employees. They only receive the specified amount stipulated in their contract, which generally happens to be the pegged monthly salary of the contracted position. Further, in many LGBs, which have less internal income, the contractual employees are not even getting the remuneration equivalent to the monthly salary of the post in which he/she is contracted. They are receiving lower salary and working under compulsion. After serving for a long time in the LGB, many of them are not in the position to leave the LGB to seek new job elsewhere. In such situation, if their contract is terminated, they have to leave their jobs empty-handed. Job security of these employees has thus become very crucial. This problem would have been eased had the LGBs were serious to accommodate the qualified contract employees by timely recruiting them through the recruitment process.

Within the civil service system, a person joining the service at officer level, meaning Class III level, could move up to the Special Class level through Class II and Class I levels (rank of a permanent secretary and the highest rank) during their career. However, the LSGR provides that anybody entering the LGBs service at 6th level officer could only move up to 9th level, equivalent to that of Class II level officer in the civil service. This is the saturation level. The officials of the LGBs rightfully opine that this is restricting the LGB employees in their career advancement. They demand that they should also be given the prospect to move up in the ladder as in the case of the civil servants. Furthermore, they contend that matters relating to their promotion are not being given due consideration and that they have been forced to remain in the same position for a long time. Also upon being promoted to the higher level, an employee expects to exercise higher level of powers,

responsibilities and authorities. This has not been the case. While some officers are promoted putatively, they exercise the same level of powers, responsibilities and authorities that they used to perform or exercise at the lower level.

The LSGR prescribes the code of conduct to be observed by the employees of the LGBs. The code of conduct is extensive and is of two categories — one is what to be done and the other is what not to be done. However, majority of the LGB employees are not aware of the provisions of the code of conduct. Among all the provisions, the one restricting LGB employees to participate at certain political activities except to cast vote is the most important one. The code of conduct prohibits any LGB employee to take part in any form in soliciting votes or to perform any acts that may influence the result of an election. Be that as it may, most of the LGB employees were appointed to their positions at the recommendations of the political parties in power; hence, the employees feel that they are beholden to the parties who helped them land their job. Thus, they openly show support to the candidates of their preferred political party and solicit votes for them during the elections, disregarding the provision of the code on participation in the political process.

As previously mentioned, the law permits LGB employees to associate freely, form an organization, recruit members for the said organization, and be recognized by the government as a trade union. As a result, various LGB employee organizations mushroomed and officials of these organizations claim affinity to political parties and ideologies they represent. These result to the LGBs employee organizations seemingly working as political party's sister organization, with the members of the former actively participating in political activities. As a result, the codes of conduct exist only nominally but none bother to observe or follow it. There is no system to monitor the compliance of the Code, either by the concerned LGB or by the MoFALD, or to reprimand the employees violating the code.

One of the main problems of the Nepalese public service, including those of the LGBs employees, is the absence of reward and discipline system in the real sense of the term. The dutiful staffs are not duly rewarded and the non-performers and way-ward staffs are not reprimanded. It is mainly due to the fact that the LGB employees, in one way or another, are people from the locale and they have been in the LGB service mainly on the recommendation of one of the local level leaders of a political party that is dominant at the national level. Whenever an action will be initiated against an employee for wrongdoings or neglect of duties, the political party patronizing the employee would raise voice against the official who is initiating the action or the deciding authority for the disciplinary action. Therefore, acts of wrong doings or neglect of duties are rarely met with disciplinary consequences in the LGBs. On the other hand, MoFALD officials recognizes government employees assigned at the LGBs through the annual national awards that recognizes best government employees by handing them out medals or a sort of decoration awards. However, the LGB employees are not included in the said award system as it is up to the LGB concerned to decide whether it wanted to provide letter of appreciation, grade increment, or cash award to any of its employees.

Under the LSGR, a LGB is required to deposit an amount each year equal to

one-month remuneration to a donation fund to be established in the name of Employees Welfare Fund. The employees of that LGB is given gratuity from that said fund (Section 265). A permanent employee of a LGB, who served at least five years, can receive gratuity upon leaving the service either on retirement at the age of 58 years or on voluntarily resignation (Section 268). The amount varies as per the length of the service.

Nonetheless, not all LGBs have established such a fund. Wherever there is one established, the amount deposited remains insufficient to pay in full amount to the retired employees, thus, the said employees are being either paid in installments or being assured to be paid in the future.¹⁴ Because of this reason too, some LGBs have been retaining the staff on contract even after they attain the retirement age of 58 years so that they do not have to make the retirement benefit payment from the Employees Welfare Fund.

The other issue related to the Employee's Welfare Fund is the difference of pay scale between the time of depositing the one-month salary and at the time of paying the gratuity to the retired employees. An employee may have to be paid more than what an employee is receiving as of the moment because of the difference of the pay scale from now to the moment an employee retires.

B. Autonomy vis-à-vis Control over LGB Employees

Article 250 of the LSGA clearly provides that the total personnel management responsibility of LGB employees lies with the concerned LGB. Under this personnel management system, the LGB employee is expected to remain in the service until the age of retirement, or otherwise resigns or terminated from service on grounds provided by law, i.e., proven corruption charge. There is neither a provision for the transfer of employees from one LGB to another LGB nor a provision for a LGB employee to be seconded to other LGB on deputation. However, it is interesting to note that the government through the LSGR has entrusted itself the power of transferring the employees of one LGB to another LGB with the consent of the LGBs concerned (LSGR section 222). Under this LSGR provision, the MoFALD would prepare guidelines and norms in the exercise of this power; however, these guidelines are yet to be prepared. But the government, through the LSGR, entrusted itself the power of seconding LGB employees to other LGBs on deputation for a period of three months in a year (222 ka).

The provisions of the LSGR could be critiqued on various grounds. First, the provisions are contradictory to the very principle of legal autonomy of LGBs. Second, the government seemingly exercises control over LGB employees by treating the LGBs as the field offices of the MoFALD through that provisions in the LSGR without amending the LSGA, which has to go to and be firstly approved by the parliament. And lastly, LGBs are also made subservient to the unilateral decisions of the central government.

Furthermore and in the context of the absence of elected officials in the LGBs for more than one decade, with the LGBs being run by government employees, the LGBs are not in the position to resist whenever the Minister for MoFALD wishes to

transfer or sends on deputation any LGB employee. In retrospect, most of the LGBs are dependent upon the central government for grants, thus even LGB officials were elected, it may be difficult for the LGBs to resist the Minister of MoFALD's wishes to transfer LGB employees.

C. LGB Employees vis-à-vis Government Employees

From the foregoing discussions, it is clear that LGBs have the power to create positions up to certain levels. In other words, under the LSGR, a LGB is only eligible to create a position up to the 9th level. This level, as already stated, is equivalent to Class II officer within the civil service system.¹⁵ As a result, two officers of the same level but belonging to two separate services — one from the civil service and the other from the service of the LGB (such as LDO and 9th level officer in a DDC) could be working in one organization.

In seniority perspective, the 9th level officer may be senior to the person who is posted as the LDO but it is the LDO who is the head of the DDC. Thus, other employees, including those who are more senior and have the same position ranking of that of the LDO, i.e; 9th level officer, have to work under the LDO's administrative control. Such a situation naturally causes uneasiness among the staff as well as difficulty for the LDO in exercising effective administrative control over officer who is more senior to him or her.

Another equally important issue is that when the position of the LDO falls vacant for various reasons¹⁶, it is the Chief of the DTO who automatically becomes Officer-in-Charge (OIC) or acting LDO regardless if the DTO Chief is also in acting capacity or a junior officer officiating in-charge role. Similarly, whenever the CEO of a municipality goes on leave or is sent to attend a seminar or training, the most senior LGB employee is not given the OIC assignment, instead, one of the regular government employees posted in the DDC is assigned to perform the functions of CEO as an acting CEO. As an specific example, when the post of the CEO of the Duhabi Municipality of Sunsari district¹⁷, fell vacant, the Planning and Administrative Officer of the Sunsari DDC was sent to the municipality as the acting CEO.¹⁸

VDC secretaries also possess varied position status or level. Some of them are Class III level Officers while others are either Assistant Level II or I. So long as Class III level officers and assistant level I are sent problem may not arise. But trouble may arise when an Assistant Level II employee is sent to VDC because the receiving VDC may have its own employee whose status would be that of Assistant Level I, causing embarrassment to this Level I employee to work under his or her junior. For instance, as told by the officials of the LGB employees associations 'a level V employee (equivalent to assistant level I employee of the government) in Khdaka-Bhadrakali VDC in Kathmandu had to work under a person who despite being the VDC secretary was the Assistant level II employee of the government'. Further, as per the officials of VDC Employees Association Nepal, 'in 9 to 10 VDCs of Kathmandu district, the seniors had to work under the administrative leadership of VDC secretaries with junior status'. They have articulated grumbling against such arrangement. They further stated 'the government should have thought the senior-

ity of the employees working in the LGB while posting a government employee in the LGBs'.

At LGB level, both the civil service cadre members and the LGBs employee perform and discharging the functions delineated by the LSGA and assigned by the government. However, officials of various LGB employees association complained that they are being discriminated upon in terms of benefits. Those assigned or deputized from the cadres of the civil service are eligible for some medical treatment benefits at the Civil Service Hospital, whereas the LGB's employees are denied of such benefits.¹⁹ Civil service cadre members working in the LGBs, are eligible for official passport while attending foreign seminars and trainings but not LGBs employees.

The government does not only send central government employees to the VDC to act as the VDC Secretary but also has approved some other positions, such as VDC Office Assistant or Technical Assistant. Said positions are level IV or equivalent to Assistant Level II position within the civil service hierarchy. As such, they need to be paid the salary and remuneration equivalent to those paid to civil servants holding similar level. But the government does not provide the grant to the VDC to pay the salary and allowance to such additional employees. Since most of the VDCs in the hills and some *Terai* (southern plain) area have limited resources, they are not in the position to provide the salary and allowances similar to that of the central government employees. And, they have to source the salaries and allowances of these employees mostly from the annual recurrent expenditure grant of measly not messly 420,000 Nepalese Rupees (NRs) that they receive from the government. From this amount, the VDC has to first meet all administrative expenses including travel and daily allowances, stationeries etc. Whatever remains after setting aside amount for these items, is then spend for the office assistant and office helper. As a result, these employees, i.e. office assistant/technical assistant and office helpers are paid far less than the amount compared to the regular central government employees.²⁰ The issue has been raised to the government by the LGB employees associations. They argue that the central government should have undertaken the responsibility of providing the salary and allowances for these positions too along with the creation and filling-up of the said positions in the VDC.

There is no separate unit within the personnel administration division of the MoFALD to look after the matters related to the employees of the LGBs while there is a Technical Division in the Ministry that looks after personnel matters related to the district technical office. Furthermore, the Office of the Comptroller General looks after the interests of accounting-related personnel wherever they may be posted. In addition, the MoGA is the central personnel agency for the civil servants working in different agencies of the Government. Notwithstanding, due to the absence of a unit at the MoFALD to look after the interests of the LGBs employees, they feel completely lost when they go to the ministry and feel that they do not have a separate unit at the ministry to whom they could share and make the presentation of their problems.

D. Mismatch between the Supply and Demand of Capacity Development Programs

The number of LGB employees to be trained in different subjects is very substantial. There is a commodious need of pre-service trainings for the fresh entrants and, also, in service trainings on various themes have to be organized to enhance the skills and knowledge of those who are currently in service. However, there is clearly a mismatch between the demand for and supply of the said trainings. The training agencies seemingly overlook the prevailing pressing demand for trainings as many of LGB employees have been working for quite a long time now but are yet to undergo in-service training. The LDTA, the primary agency tasked to train the LGBs and its employees, has poor infrastructure and suffering from financial constraints, thus, unable to meet the training demands of vast numbers of LGB employees.

Furthermore, it seems that the three training institutions, the LDTA, the NASC and PTA, involved in the capacity development of the LGBs and their employees do not coordinate with each other. Instead of working in a coordinated manner which could have optimized the resources, they are in their own worlds and running the programs without coordinating with each other's programs.

Officials of the LGB employees associations also complain that despite the fact that DDCs are involved in a number of programs, such as disaster management and environment protection, their employees are not considered for overseas or foreign training except those tied up with specific projects. The MoFALD, the ministry that is supposed to look after this matter, has not been giving this matter a serious consideration mainly because those working in the said ministry feel that foreign trainings or seminars are the last few "attractions" in the ministry and argues why should they be giving away the said "attractive" opportunity to others.

E. Absence of Implementation Monitoring of the LSGA and LSGR Provisions

From the point of personnel management coverage, one could hardly pass any remark on the contents of the LSGA and LSGR except whether the employees could really grasp the detailed procedures laid in the LSGR. The existence *per se* of provisions is not sufficient but must also be understood and followed by all concern. In addition, there is a need for the continuous and regular monitoring from the MoFALD. Nevertheless, monitoring from the ministry is virtually absent. The existence of back door entry into the LGB service, in various forms, is one clear indication that personnel management at LGBs is yet to be institutionalized in the real sense of the term. If management auditing is done, a number of anomalies would be exposed

F. Absence of Accurate Data and Information about LGBs Employees

LGBs have been part and parcel of Nepalese life. Of the different public organizations, the LGBs are the ones which Nepalese people have the most direct contact. Large numbers of people are being employed by these bodies. To streamline the personnel management system in the LGBs, as already indicated, the LSGA, has

envisaged a Local Service along the line of the national civil service. Despite the fact that the LSGA has been in implementation for about one and half decades, the Local Service is yet to be constituted. Also there are no central records of the LGBs employees like that of the civil servants, police force and the Nepal Army. Therefore, the government, the MoFALD, does not have the overall picture of the positions and persons working in the LGBs, except the number of the government employees (members of the civil service cadre) assigned or posted to the LGBs and the number of positions for which it provides the administrative grant.

IV. Proposition for Improvements

In the light of the above, it should be clear that the LGBs are yet to be institutionalized from the point of view of personnel management system. There is enough room for improvement in the system. Therefore, to address the above mentioned de-facto situation and establish a more systematic personnel management system in the LGBs and to have a better coordination between the training institutions/academy and demand of the LGBs in relation to their capacity development, the government should initiate various measures such as the followings:

A. *Separate Laws for LGBs*

The current LSGA is an integrated law covering the rural/urban and district level LGBs. As such, the metropolitan area like Kathmandu and other big cities and a VDC from a remote district are being run and managed by this law. Nevertheless, the nature of issues/problems to be handled by an urban body (municipal council/municipality) is different from those of the rural areas. Furthermore, there is a growing urbanization trend in the country. Due to these factors, there is thinking among the concerned stakeholders that in place of the LSGA the country is in need of separate laws — one for VDC and DDC and the other for municipalities with specific provisions for the metropolitan councils like Kathmandu. Such laws, according to them, should also have the provisions for the personnel management of the employees of the respective local governance bodies.

In order to provide enough room for career development opportunity to the local governance employees, provision for higher positions and not limited to a certain level, should also be made in the proposed laws. They should also be ensured to receive their post retirement benefit through a system of contribution from both the LGBs and the government. With regards to the accountability of the members of the local service, it has to be towards the LGBs and not to the government. This has to be clearly laid down in the proposed laws.

As the LGB employees association have become the reality and the government may now not be able to just dismiss their presence, there should be provision for them in the proposed laws. However, care should be taken through appropriate provision so that the employees do not misuse the provision to the detriment of the interests of the organization.

It may be mentioned that the country, as per the Interim Constitution of Nepal

2007, is a federal republic. The Constituent Assembly (CA) elected in November 2014 is in the process of drafting the constitution for the new political set up. In this context, one could ask whether it is the time for the country to frame new laws. Nevertheless, the fact is that the framers of the constitution have already agreed that there would be LGBs under the federal system; the current Interim Constitution recognizes LGBs and the LGSA and LGSR. Moreover, it may take three to five years to restructure the present structures after the approval of the new constitution by the CA and its promulgation. Therefore, there should be no problem for the government to frame new laws. In addition, at the time of restructuring the public institutions as per the new constitution, the provisions of the laws could be reviewed and readjusted as per the requirement.

B. Linkage between the LGBs and Training Institutions

In order to address the present situation of different training institutions/academy going on their own way in providing human resources development programs/opportunities to the LGBs including their employees, it is desirable to have a program coordination mechanism with the representation of all the public training institutions/academy and the public administration program of the universities. In such a coordination mechanism, there should be representation of the LGBs associations including the associations (trade unions) of their employees. The main job of this body should be to assess the human resources needs of the LGBs and decide the programs accordingly. Moreover, it should monitor the implementation of the programs and take actions for the required improvement. The initiative for the establishment of such a coordination mechanism has to come from the MoFALD. The ministry should do its proper home work for the establishment of such mechanism with the support and assistance of those who are knowledgeable about the human resources development, in general, and capacity development of the LGBs in particular.

A coordinated effort is needed among the training institutions and public administration programs of the University for improving the required knowledge and skills of those working at the LGBs, is also needed.

Conclusion

For more than five decades, there has been two tier of local governance system — village/urban level and district level in Nepal. More than forty thousand employees are working in the LGBs. Broadly they could be divided into three categories — government employees, project specific staff including those of LGCDP supported staff and LGBs employees. Project staff such as LGCDP employees are managed by the project specific staff including those of program itself, two laws cover the personnel management, i.e. the government employees are governed by the government through the Civil Service Act of 1993 and the Civil Service Rules of 1994; and LGBs employees are governed by the concerned LGB through the Local Self Governance Act (LSGA) of 1999 and Local Self Governance Rules (LSGR) of 1999. From the

standpoint of size, LGBs employees compared to the government employees is large (78 percent). However, from the perspective of career development opportunities and facilities, they have limited career development opportunity or practically no capacity development prospect at all. More so, there are limited facilities available. These employees are less privileged compared to their government employee counterpart and they feel discriminated even if they have been performing their responsibilities along with the government employees in the same organization. As such, the personnel management system of the employees associated with the LGBs, especially those of the LGB employees, is yet to be institutionalized. In addition, there is a need for a much closer linkage between the academic/training institutions imparting skill and knowledge enhancement programs and the government agency that looks after the LGBs. Also, between the training institutions and the LGB's employees' associations. In the context of growing number of municipalities and the varying problems they need to address, there is need for separate legal arrangements one for urban local government bodies and the other for the rural and district level local governance bodies; such laws should not only deal with the structure, functions and responsibilities of the respective bodies but also govern and manage their total personnel.

Notes

- 1 Government of Nepal (GoN) recently has formed 143 new municipalities by merging 639 VDCs. The number of municipalities now has risen to 191 and the number of VDCs dropped down to 3,276 from 3,915 after formation of the new municipalities.
- 2 A ward is a settlement or group of settlements or locality or group of localities falling under the jurisdictions of a VDC or Municipality. Each VDC has nine wards, whereas the number of municipal wards varies from 9 to 35 wards, for example Kathmandu Metropolitan Council has 35 wards.
- 3 Upon the change in the political system after the peoples movement of 2006/007, the then constitution, Constitution of the Kingdom of Nepal was abrogated, a new constitution, the current interim constitution, the Constitution of Nepal 2007 was promulgated and under this constitution, Nepal elected first constituent assembly in 2008, but it failed to draft the constitution and got dissolved upon the completion of its extended period of two years came to an end in May 2012. And the country went for election once again for the second constituent assembly in 2013 for a period of four years.
- 4 The eleven subject areas are: agriculture, rural drinking water, construction and transport, education and sports, irrigation, soil erosion and river control, physical development, health, forest and environment, language and culture, tourism and cottage industry, and some others under the heading 'miscellaneous.'
- 5 The headings under which these are mentioned are: finance, physical development, water resources, environment, and sanitation, education, sports and culture, works and transport, health, social welfare, industry and tourism and under the heading 'miscellaneous'. In addition, 13 functions have been identified as optional functions.
- 6 The subject headings are agriculture, rural drinking water and settlement development, power, works and transport, land reforms and land management, women and disadvantaged people, forest and environment, education and sports, wage labour, irrigation, soil erosion control and river training, information and communication, language and cul-

ture, cottage industry, health and tourism.

- 7 Officers of different levels are posted as the CEOs depending upon the nature of municipality. Higher-level officers of Class I in the Metropolis, midlevel officers of Class II in the sub-metropolis, and junior officers of Class III in the smaller municipalities are generally posted.
- 8 The Government of Nepal (GoN) has implemented a multi-donor-supported Local Governance and Community Development Program (LGCDP) with an aim to contribute towards poverty reduction through better local governance and community development. The program has five main components -empowerment of citizens and communities for their active engagement with local governments and for strengthening downward accountability; funding to DDC, municipality and VDC-led local development; developing capacity of LGBs for effective service delivery; providing policy support for decentralization and local governance; and promoting gender-sensitivity and social inclusion in local government affairs.
- 9 The Municipality shall not create new post of municipal police without taking prior approval of the GoN; and it may, by framing the Byelaws, make necessary arrangements regarding the service, terms and operation of municipal police serving in the post created before the commencement of this Rule.
- 10 An Association of non-Government Staff of DDC
- 11 http://www.ldta.org.np/about_content.php?id=10
- 12 <http://www.nasc.org.np/general-information>
- 13 <http://www.pta.org.np/>
- 14 For example, as per officials of LGB employees' associations, "one officer of the Bhojpur DDC had to receive NRs. 600,000 upon retirement from the service but could not receive the total amount and had to be satisfied for payment in installment basis.
- 15 It may also be mentioned that with regard to the classification of the positions, there are two systems — class and level systems — within the Nepalese public service (civilian administration) including those positions within the LGBs. Although there does not exist any official document or decision regarding the equalization of the positions falling under these system, six and seven levels are treated as equal to Class III level officer — officers having different nomenclature or titles, such as Section Officer, Planning officer etc. Similarly 8th and 9th levels are considered equivalent to Class II level officer — known with different titles, such as Under Secretary, Director, Chief District Officer, Local Development Officer and so on.
- 16 For example: If the LDO has been send to attend a training or gone on leave or a successor has not been send upon transfer the incumbent
- 17 Located in the eastern part of the country.
- 18 As echoed by several officials of LGB employees association.
- 19 One of the demands made by the LGBs employees associations lodged before the government is that LGBs employees be also provided the same benefits being availed by the central government employees at the Civil Service hospital. The hospital indicated that they are willing to provide the same benefits to LGB employees too on the conditions that additional resource be given to them by the government, which is yet to be approved.
- 20 In the district of Ramechhap (a hilly district in central Nepal), a person is working for NRs 2,500 per month in the post of Administrative Assistant, whereas the normal salary of this position within the government service is about NRs 16,000 per month. There are people who are working in less than this amount in some other districts. Similarly, the people working as office helper are getting NRs. 1,000 to 1,500 per month where as the

normal salary level is about NRs. 12,000 per month.

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Annex

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List of the Persons Met (In alphabetical order)

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 Bidur Mainali, Secretary General MuAN and former Deputy Mayor Kathmandu Metropolitan City
 Brahma Dutta Roy, Senior Officer, Nepal Administrative Staff College (NASC), Kathmandu
 Christopher Butler, US Fulbright Scholar, Nepal
 Dal Bikram Kandel, Section Officer, MoFALD, Kathmandu
 Gopal Prasad Pokharel, Internal Audit officer, Kathmandu DDC and Secretary General, Association of Local Government Employees, Nepal
 Mr. Him Paudel, Secretary General, Municipalities Employees Association, Nepal
 Mr. S. B. Shrestha, Social Mobilization Specialist, MoFALD/LGCDP, Kathmandu
 Pawan Lohani, Local Governance Specialist
 Purusotam Nepal, Under secretary, Ministry of Federal Affairs and Local Development (MoFALD), Kathmandu
 Raj Kumar Thapa, Secretary General, Village Development Committee Employees Association, Nepal