

Office of the Attorney General: Core Issues on Public Prosecution Services

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This document highlights some core issues on the government prosecution services. It points out the requiring number of posts that need to be in activity in the district and appellate courts and compares the requirements to the actual number that are in practice. The paper also highlights the rate of attrition/turn-over per district and appellate court, the allocated budget by prosecutors' office, the actual funds received, the formal salary figures and data on the reality of when salary payments were received, and reasons for any problems that may have occurred.

Office of the Attorney General

Office	Number	Location
Office of the Attorney General (Headquarters)	1	Kathmandu
Appellate Government Attorney Offices	16	Sixteen different cities where appellate courts are located (not necessarily zonal headquarters)
District Government Attorney Offices	75	District headquarters

The existing five-year Strategic Plan 2068/69-2072/73 (2012-2015 AD) of the Office of Attorney General (OAG) has identified its reformed plan. It states that the existing human resources at the OAG, which mostly comprise of government attorneys, are insufficient in terms of quantity and quality. The numbers must be increased and efforts must be made to build their capacity and effectively carry out their roles. The coordination between the OAG in Kathmandu and the Office Appellate and District government attorney offices is not enough, and such machinery must be developed.

Office of Government Attorneys: Manpower Details, Workload and Expenditure

Total Vacancies of Government Attorneys and
Fulfilled Positions

S. No.	position	Class	Approved Vacancies	Fulfilled vacancies	Unfulfilled vacancies
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1	Attorney General	Constitutional	1	1	0
2	Deputy Attorney General	Gazetted Special Class	4	4	0
3	Joint Attorney General	Gazetted First Class	30	26	4
4	District Attorney / Under Attorney	Gazetted Second Class	134	112	22
5	Assistant District Attorney / Section Officer	Gazetted Third Class	199	90	109
		Total	३६८	२३३	१३५

Vacancies of Government Attorneys and other staffs of the Office of the Attorney General and the Offices of Government Attorneys under it

S e r v i c e C r o u p	Position	Office of the Attorney General			
		A p p r o v e d V a c a n c i e s	P r o m o t i o n	A c t u a l	R e m a r k
	Special Class	4			
	Gazetted First Class	9			
	Gazetted Second Class	11			
	Gazetted Third class	21			
	Non-gazetted First Class	17	2	1	
	Non-gazetted	9			

Group															i	i		
															e	o		
														s	n			
Public Service Commission Group	Gazetted First Class	1		1		1		1		1		1		1		6	0	0
	Gazetted Second Class	2		1		2		2		2		2		2		1	1	0
	Gazetted Third class	2		2		2		2		2		2		2		1	2	0
	Non-gazetted	4		3		4		1	4		4		4	2		2	3	2

Other Service Groups	First Class																		
	Non-gazetted Second Class	1		1		2	2	2		2		2						1	0
	Non-gazetted First Class																	0	0
	Non-gazetted Sec	1		1	1	1	1	1		1		1	1				6	3	0

rat or																						
H a. sa .c ha	1			1			1			1			1			1				6	0	0
K a. sa	4			4			5			5			5			5				2	8	0
Total	18	0	0	1	1	0	2	0	3	1	0	2	0	1	0	2	0	3	0	1	1	4

S P e r v i c e C r o u p	Patan			Pokhara			Baglung			Butwal			Tulsipur			Nepalganj			Total			
	Vaca ncies	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	
G a z e t t e d F i r s t C l a s s	1			1			1			1			1			1				6	0	0
G a z e t t e d S e c o n	5			2			1			2			2			2				1	4	0

d C l a s s																			
G a z e t t e d T h i r d c l a s s	5		2		2		2		2		2		2		1	5	0	0	
N o n- g a z e t t e d F i r s t C l a s s	5		3	1	3		4		3		4		2	2	1	0			
N o n- g a z e t t e d S e c o n d C l a s s	2	1	3		1	2		2		2		2		1	1	3	1	2	
F N															0	0	0		

O u p G a z e t e d F i r s t C l a s s G a z e t e d S e c o n d C l a s s G a z e t e d T h i r d c l a s s N o n - g a z e t e d	1		1		1		1		1		1	6	0	0
	2		1		2		1		3	1	0	0	0	0
	2		2		2		2		3	5	0	0	0	0
	3		4		4		3		5	9	3	1	1	1

Other Service Groups	First Class													
	Non-gazetted Second Class	2	1	1		1		2	1		29	5	2	
	Non-gazetted First Class										0	0	0	
	Non-gazetted Sec	1		1		1		1	1		16	8	1	

o n d C l a s s													
T y p i s t - N a y a b S u b b a	1		1		1		1				1 6	1	0
T y p i s t - K h a r i d a r											2	0	1
C o m p u t e r O p e r a t o r	1		1								6	0	0
K h a r i d a r - C o m p u t e r O p e						1		1			9	0	0

rat or																
	H a. s a .c h a															
	1			1			1			1			1	6	0	0
K a. s a																
	4			4			4			4			7	2	0	0
T o t a l																
	18	1	0	7	0	0	8	0	0	7	2	0	3	0	7	5

**Human Resource Details of District Government Attorneys
Offices**

S e r v i c e C r o u p	Taplejung			Panchthar			Ilam			Jhapa			Terhathum			Sankhuwa sabha			Bho jpur			Tot al		
	Vaca ncies	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l
G a z e t e d S e c o n d C l a s s	1			1			1			1			1			1			1			7	0	0
	1			1			1			2			1			1			1			8	0	0

O p e r a t o r																									
	A s s i s t a n t C o m p u t e r O p e r a t o r																								
		1																1							
H a. s a. .c h a																									
K a. s a .																									
	3																								
T o t a l	8	0	0	9	0	0	9	0	0	1	0	0	9	1	0	8	0	0	9	1	0	6	4	2	

S e r v i c e C o u p	Dhankuta			Morang			Sunsari			Solukhum bu			Khotang			Okhaldhun ga			Uda y p u r			Tot al					
	Vaca n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l			
G a z e t e d S	1			1			1			1			1			1			1			1			7	0	0

g az et te d S ec o n d C la ss																				
C t h e r S e r v i c e C o u n c i l	N o n - g az et te d F i r s t C l a s s																			0 0 0
	N o n - g az et te d S e c o n d C l a s s																			0 0 0
T yp ist -		1						1	1						1					3 0 1

Total	12	0	0	12	1	0	12	0	0	12	1	1	12	1	0	9	2	0	9	0	0	78	5	1
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S e r v i c e G r o u p	Rauthat			Bara			Parsa			Makwanpur			Chitwan			Dolakha			Sindupalchowk		Total				
	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion	Actual	Vacancies	Promotion		
MUNICIPALITY-GOVERNMENT EMPLOYEES GROUP	Gazetted Second Class	1		1		1		1		1		1		1		1		1		1		7	0	0	
	Gazetted Third class	2		2		2		1		2		1		1		1		1		1		1	1	0	0
	Non-gazet	1		1		1		1		1		1		2		2		2		2		9	0	0	

S e r v i c e C r o u p	Rupandehi			Kapilvastu			Dang			Salyan			Pyuthan			Rukum			Rol pa		Tot al				
	Vaca ncies	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	Pr o m o t i o n	A c t u a l	V a c a n c i e s	P r o m o t i o n	A c t u a l	V a c a n c i e s	P r o m o t i o n	A c t u a l	
S e r v i c e C r o u p G a z e t t e d S e c o n d C l a s s	1			1			1			1			1			1			1			1	7	0	0
	2			2			1			1			1			1			1			1	9	0	0
	1			1			1			2			2			2			2			2	1	1	0

Gazetted Second Class	1		1		1		1		1		1		7500
Gazetted Third class	2		1		1		1		2				10300
Non-gazetted First Class	1	1	1		2		1		2	1			10813
Non-gazetted	2		1		1		1		1	1			10251

Second Class																			
Non-gazetted First Class																1	0	0	
Senior Vice Controller																			
Second Class																0	0	0	
Typist - Nayab Suba	1			1												3	3	4	1

T y p i s t - K h a r i d a r																	2	2	0			
C o m p u t e r O p e r a t o r	1											1					2	7	2	0		
A s s i s t a n t C o m p u t e r O p e r a t o r							1										3	8	0	0		
H a. s a .c h a																	1		0	0		
K a. s a .	4			3			3			3					4			2	4	8	0	0
T o t a l	12	0	1	8	0	0	9	0	0	8	0	0	1	2	2	0	7	3	8	4	4	5

The problem of manpower may be summarized as follows:

- The existing number of government attorneys at the OAG and government attorney offices in the district and appellate courts in the city areas is fewer than the requirement.
- In all government attorney offices, including the OAG, the number of staff members at the assistant level is even fewer than the number of government attorneys.
- There has been little effort made to develop specialization in different fields of law and prosecution services.
- At its present capacity, the OAG is unable to deal with challenges of globalization and legal issues that are quickly emerging.
- There is widespread dissatisfaction for the lack of benefits and privileges that can commensurate with the work and responsibilities of government attorneys.

Serial Number	Activities	Activities performed by DGAO	Activities performed by AGAO	Activities performed by OAG	Total time necessary (hours)
A.	Time to be spent on cases				
1.	Statements in the process of case investigation	4	0	0	4
2.	Drafting of charge-sheet	3	0	0	3
3.	Preparation for pretrial detention (thunchhek) arguments and brief	3	0	0	3
4.	Pretrial detention arguments (before the court)	3	0	0	3
5.	Statement of defendant in the court	4	0	0	4
6.	Examination of witness of both sides	8	0	0	8
7.	Preparation for oral arguments and brief	4	0	0	4
8.	Oral arguments	4	0	0	4

9.	Study/review of decisions/judgments rendered and drafting of appeal documents	4	0	0	4
10.	Finalization of appeal document and case registration	0	3	0	3
11.	Preparation for oral arguments and brief	0	4	0	4
12.	Oral arguments	0	4	0	4
13.	Study/review of decisions/judgments rendered and drafting of document for further appeal, or application for revision	0	4	0	4
14.	Finalization of the application and its registration	0	0	3	3
15.	Preparation for oral arguments and brief	0	0	4	4
16.	Oral arguments	0	0	4	4
17.	Study, review and request for leave for revision	0	0	4	4
18.	Preparation for oral arguments and brief	0	0	3	3
19.	Oral arguments	0	0	4	4
	Total hours	37	15	22	14
	Number of days	5/29	2/14	3/14	10/57
B.	Time to be spent spent on Applications/petitions				
1.	Drafting of Application under Section 17, Government Cases Act (application for extension of investigation period)	4	3	0	7
2.	Finalization of such Application	0	4	3	7

	and registration				
3.	Preparation for oral arguments and brief	0	4	4	8
4.	Oral arguments under Section 17	0	4	4	8
	Total Hours	4	15	11	30
	Total Days	0/57	2/14	1/15	4/29
	Total number of days from beginning of a case to its end	5/86	4/29	4/71	14/86

Details	Number of settled cases	Number of working days on average	Total number of days
Office of the Attorney General			
Cases	1867	3/14	5862/4
Writ Petitions	3807	2	7614
Applications	1177	1/57	1847/9
Total	6851		15324
Appellate Government Attorney Office			
Cases	6925	2/14	14820
Writ Petitions	2987	2	5974
Applications	1829	2/14	3914/1
Total	11741		24708
District Government Attorney Office			
Cases	29677	5/29	156991
Writ Petitions	354	2	708
Applications	0	0/57	0
Total	29677		156991
Grand total	48269		197023

In a single fiscal year, a staff member is eligible for home leave (30 days), sick leave (12 days), and casual leave (12 days). There are some days off for festivals also. In total, a staff member is entitled to 54 days of leave every year, which means that he or she works for at least 225 days each year. However during the last fiscal year, there were a total of 279 working days. The figure shows that a government attorney worked for more than the required hours of work per year. In other words, he or she worked 230.9 days more than what was required and the equivalent of 2.03 years in that single year. This calculation has been made assuming only one defendant and one witness from each side. However, most of the time, it is not a representative case.

Office	Total entry of cases, writ petitions, and applications	Salary and allowances spent	Per case expenditure
Office of the Attorney General	6851	26,761,303.00	3,906.19
Appellate Government Attorney Office – 16	11741	45,112,491.00	3,842.30
District Government Attorney Office – 75	30031	101,042,496.00	3,364.61

S. No.	Entity	Last Year	This Year	Total	Prosecution sustained	Innocence	Withdrawal of cases	Awaiting further action - Multabi	Total	Outstanding cases
1	District Administration Office	5251	7009	12260	5923	78	-	6	6007	6253
2	Others	24	14	38	3	0	0	0	3	35

S. No.	Entity	Last Year	This Year	Total	Claims sustained	Claims not sustained	Withdrawal of cases	Awaiting further action - Multabi	Total	Outstanding cases
1	District Administration Office	2	0	2	0	0	0	0	0	2
2	Others	5	8	13	0	0	0	0	0	13

S. No.	Entity	Last Year	This Year	Total	Prosecution sustained	Innocence	Withdrawal of cases	Awaiting further action - Multabi	Total	Outstanding cases
1	District Administration Office	41	272	149	39	0	0	0	188	125
2	Others	550	701	1215	370	5	0	0	375	876

Details of cases defended by government attorneys in quasi-judicial bodies													
S. No.	Case	Entry		Settlement								Outstanding Cases	
		Case	Defendant	Prosecution sustained		Innocence		Cases withdrawn or awaiting further action or taken no action on (Tamel)		Total			
				Case	Defendant	Case	Defendant	Case	Defendant	Case	Defendant	Case	Defendant
1	Compensation	502	1174	128	248	1	1	1	2	130	251	372	923
2	Forest	1585	5258	518	1448	65	381	0	30	583	1859	1002	3399
3	Public offence	10277	28424	5303	16692	34	155	0	0	5337	16847	4940	11577
4	Arms and ammunitions	1137	2851	382	953	23	111	5	18	410	1082	727	1769
5	Black marketing	67	153	36	70	5	20	1	3	42	93	25	60
6	Explosives	89	292	25	61	11	37	0	1	36	99	53	193
	Grand Total	13657	38152	6392	19472	139	705	7	54	6538	20231	7119	17921

Details of appeals by government attorneys on cases decided by quasi-judicial bodies				
S. No.	Cases	Entry	Settlement	Outstanding

No.									Total	g cases	
	Last year	This year	Total	Affirmation of original decisions		Reversal of original decisions		Cases withdrawn or awaiting further action or taken no action on (Tamil) etc.			
				Prosecution sustained	Innocence	Prosecution sustained	Innocence				
1	Compensation	6	36	42	6	4	2	2	0	14	28
2	Forest	36	110	146	13	23	7	19	1	63	83
3	Public offence	35	119	154	26	35	9	3	0	73	81
4	Arms and ammunitions	69	137	206	28	29	13	7	1	78	128
5	Black marketing	0	15	15	2	4	0	2	0	8	7
6	Explosives	1	14	15	4	1	1	1	0	7	8
Grand Total		147	431	578	79	96	32	34	2	243	335

Details of habeas corpus petitions on which government attorneys acted for the government at Supreme Court and other subordinate courts

S.No.	Office	Entry	Settled				Outstanding writs
			Writ rejected	Writ issued	Others	Total	
1	Office of the Attorney General	89	38	9	9	56	33
2	Appellate Government Attorney Office	260	185	54	3	242	18
3	District Attorney Government Office	34	20	5		25	9
Total		383	243	68	12	323	60