

THE PUBLIC SERVICE

International IDEA's Constitution-Building Primer 27



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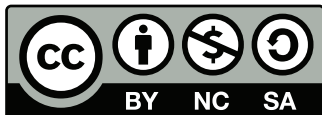
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Chapter 1

INTRODUCTION

This primer examines the utility and comparative practice of the constitutional regulation of the public service. The public service in this primer refers to the civilian, non-judicial, unelected administrative offices paid from the public budget, also referred to as the public administration or civil service. It does not, therefore, cover political offices, such as members of parliament, government ministers or an elected head of state, nor does it include judges, magistrates or members of the security services.¹

The details of administrative structures and practices, and the rules governing the public service and its members, are rarely, if ever, mentioned in constitutions; these issues are left to subconstitutional laws, regulations, orders, norms and practices. Nevertheless, as this primer illustrates, many constitutions—especially recent constitutions—establish at least the principles and foundations of the public service, and the quality of the public service is something constitution-makers should bear in mind when drafting constitutional texts. The quality of public administration has important implications for effective government, democratic integrity, the avoidance of state capture and the rule of law. A robustly institutionalized and politically neutral public administration also reduces the winner-takes-all consequences of politics, since political victory cannot be turned into rewards in the form of clientelistic appointments.

This primer was written to inform deliberation and decisions regarding the constitutional regulation of the public service. While many, although by no means all, of the examples are drawn from

The public service in this primer refers to the civilian, non-judicial, unelected administrative offices paid from the public budget, also referred to as the public administration or civil service.

¹ It should also be noted that the public service does not necessarily include the whole of the public sector: depending on the country, there may be other public employees—such as staff of state-owned enterprises, local authorities or publicly funded educational establishments—who are part of the public sector but who are not public officers or civil servants.

Commonwealth constitutions—since those typically provide a lot of detail on matters relating to the public service, including the design of public service commissions—the insights and experiences discussed in the primer have relevance for constitution-makers in all systems.

Chapter 2 of this primer outlines some general principles on what the public service is, why it matters, and how an effective public service relates to the performance of the constitution and of the state as a whole. Chapter 3 discusses some general constitutional design options regarding the status and regulation of the public service. Chapter 4 covers the functions, composition and powers of public service commissions, which are a common, albeit not universal, means of regulating and managing the public service. Chapter 5 then considers a range of contextual considerations, including questions of inclusion and diversity, federalism, Indigenous administration, and the status and esteem of the public service. The primer ends with decision-making questions (Chapter 6), followed by some example constitutional provisions (Chapter 7).

Chapter 2

WHAT IS THE ISSUE?

In modern representative democracies, policy is set and government is conducted by those elected by, and responsible to, the people in free, fair, competitive and regular elections. However, most of the work of government and policy implementation is necessarily undertaken not by elected representatives, but by permanent, professional, non-partisan officials. There is therefore a distinction between, on the one hand, 'the government' (in the narrow sense of the term, encompassing the head of government, ministers and other political appointees at the ministerial level), and, on the other hand, 'the administration', or 'public service'.

In other words, democracy is balanced, and supported, by a meritocratic bureaucracy. It follows that the quality of governance depends not only on the quality of democracy but also on the quality of public administration, and that a constitution should support good governance by promoting an efficient, honest and competent public service. Some of the functions and benefits of a good public service are shown in Table 2.1.

Nevertheless, there are sometimes complaints, in many countries, that real-life public services do not live up to these expectations: they may be perceived as, and in reality be, inefficient, clientelistic, corrupt and incompetent. In some extreme cases, the public service may be viewed by populist leaders as a hostile 'deep state', which has to be rooted out (although it is less clear what they propose to replace it with) (Mudde and Kaltwasser 2017). In other contexts, the complaint is that the public service has already been so hollowed out by the rise of so-called New Public Management (the introduction of business-like processes in opposition to the public service ethos) or by the rise of politically appointed special advisors or outsourcing of public functions to consultancies, causing an erosion of state capacity.

Most of the work of government and policy implementation is necessarily undertaken not by elected representatives, but by permanent, professional, non-partisan officials.

Table 2.1. Functions and benefits of the public service

Effective delegation	The scale and complexity of modern government is more than political executives could hope to manage alone. It requires a broad delegation of authority to officials over day-to-day administration.
Fairness and predictability	A permanent, professional and non-partisan public service creates a bureaucratic system where authority is based upon institutions rather than personal connections, allowing fair treatment for all citizens regardless of their background or political affiliation.
Expertise and competence	While elected leaders represent the people, they may lack the administrative skills necessary to make policy and manage services effectively. A competent public service provides needed expertise.
Continuity	Presidents and prime ministers come and go. The public service maintains continuity during political changes, ensuring stability and enabling essential state functions to continue uninterrupted.
Internal checks and balances	A respected public service can offer internal checks and balances to restrain the wayward or impulsive actions of elected leaders. Without actually challenging the policymaking authority of the political executive, the public service can uphold proper norms and procedures that contribute to good governance.
Advice and information	The public service can be a source of advice and information to support the political executive in making policy decisions—identifying issues, evaluating options, costing proposals, etc.

Source: Developed by the author.

Since the public service is vital to good governance, it is a subject worthy of consideration in discussions about designing or amending a constitution.

While almost all constitutions have much to say about the structure of the government, some say little or nothing about the public service. However, since the public service is vital to good governance, it is a subject worthy of consideration in discussions about designing or amending a constitution. The challenge facing constitutional designers is twofold: firstly, to establish the constitutional framework for an effective public service that will be able to perform these tasks well, and thereby contribute to good governance; secondly, to prevent the public service from becoming corrupt, self-serving or obstructive. There has to be sufficient political direction and oversight of the public service to ensure that it actually serves the public, but not so much political control, especially over appointments, that it becomes a tool of partisan patronage.

In many countries, especially those with a British institutional heritage, the balance between democratically responsible political

leadership and non-partisan, professional public administration is maintained by the principle of ministerial responsibility, which states that ministers, not public servants, are ultimately responsible for the work, actions, decisions and mistakes of their departments. This principle is explained in Box 2.1.

Box 2.1. Some principles of ministerial responsibility

1. Public servants are permanent, professional and impartial administrators. They are selected and promoted based on merit and serve with security of tenure during good behaviour.
2. Senior public servants may (and should) advise ministers freely and frankly in private.
3. Policy decisions remain those of ministers alone.
4. Government departments are under the supervision of a senior public servant, subject to the overall direction and control of a responsible minister.
5. Public servants carry out policy administration and implementation.
6. Ministers retain ultimate political and legal responsibility for the actions of their departments.
7. In the event of a severe failure by a department, the minister responsible should resign.
8. Public servants can have their own personal political opinions but should not publicly engage in political controversy.
9. Public servants should not be personally identified with any policy; they speak in public, if at all, only for and on behalf of their minister.

Source: Developed by the author.

The principle of ministerial responsibility sometimes leads to challenging situations. In countries experiencing democratic backsliding, authoritarian populist pressures on democracy or endemic corruption, the neutrality and professionalism of the public service can be a point of contention, as ministers ask public servants to act in ways that are arbitrary or contrary to the principles of impartial administration. What happens when senior public servants warn ministers of the severe negative consequences of their actions, but ministers persist in them anyway? While public servants have a duty to make their concerns known to ministers, and to make ministers fully aware of those consequences, ministerial responsibility dictates that ultimately ministers must prevail and must take responsibility—legally and politically—for their decisions. These problems are bigger than any constitution alone can solve. They involve institutional and political cultures, as well as norms and practices that emerge at a subconstitutional level. Even so, constitutional regulation of the public service can help create

structures, and define norms, in ways that maintain a healthier balance between democratic political leadership and competent, impartial administration.

A few countries—for example Sweden—have a very different approach to the balance of responsibilities between ministers and civil servants. Rather than relying on the principle of ministerial responsibility, they draw a sharper distinction between policy decisions, which are the proper responsibility of ministers, and administrative decisions, which are the proper responsibility of civil servants. Ministers are not permitted to interfere in administrative decisions. In principle, this reduces corruption and ensures greater objectivity and procedural fairness in administrative decisions. It requires, however, very strong institutions and the broad acceptance of norms which value procedural objectivity over political discretion.

Chapter 3

CONSTITUTIONALIZING THE PUBLIC SERVICE

3.1. NON-RECOGNITION

Some (mostly older) constitutions say little or nothing about the public administration. They do not recognize a distinct public service but simply define an 'executive branch', with no constitutional distinction between the political leadership of the executive and subordinate administrative officials. Even if certain statutory protections are in place, the lack of constitutional recognition may expose the public service to political manipulation and clientelism. The US Constitution is of this type, and it has been difficult for the US Civil Service, in the absence of clear constitutional recognition, to defend its impartiality, permanence and professionalism (Riccard 2021), especially against those asserting the doctrine of a 'unitary executive'.

3.2. MINIMAL CONSTITUTIONAL RECOGNITION

Most modern constitutions recognize the public service, albeit with varying degrees of detail.

Some constitutions recognize the public service only in a minimal way, merely mentioning it in passing or simply empowering the legislature to regulate the public service by statute. Even this minimal recognition, however, at least introduces a constitutional distinction between the political executive and the public service and recognizes that the public service should be regulated by law, rather than be left to executive discretion.

Most modern constitutions recognize the public service, albeit with varying degrees of detail.

- The French Constitution (1958) states that the government ‘shall have at its disposal the civil service’ (article 20), and that statutes shall ‘determine the rules governing the fundamental guarantees granted to civil servants’ (article 34).
- The Constitution of Japan (1946) gives the Cabinet the authority to ‘administer the civil service, in accordance with standards established by law’ (article 73). It also states that public officials are ‘servants of the whole community and not of any group thereof’ (article 15), which is the basis of the principle of civil service impartiality.

3.3. DETAILED CONSTITUTIONAL REGULATION

Other constitutions go into more detail about the principles of the public service; rules of recruitment, appointment, promotion, tenure, discipline and retirement; and rules of ethics and conduct—although these provisions are often still quite broad or general and heavily dependent upon statutes for details:

- The Constitution of Costa Rica (1949) provides that ‘A statute of civil service will regulate the relations between the State and the public servants, for the purpose of guaranteeing the efficiency of the administration. With the exceptions that this Constitution and the statute of civil service determine, the public servants will be appointed on the basis of proven suitability and they may only be removed for the causes of justified dismissal’ (articles 191 and 192).
- The Danish Constitution (1953) declares that ‘Rules governing the appointment of civil servants shall be laid down by statute. No person shall be appointed a civil servant unless he is a Danish subject. Civil servants who are appointed by the King shall make a solemn declaration to the effect that they will adhere to the Constitution Act’ (section 27).
- Article 33 of the German Basic Law (1949) provides that ‘The exercise of sovereign authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty defined by public law’, and that ‘The law governing the public service shall be regulated and developed with due regard to the traditional principles of the professional civil service’.

- The Spanish Constitution (1978) provides that ‘The organs of State Administration are set up, directed and coordinated in accordance with the law. The law shall lay down the status of civil servants, the entry into the civil service in accordance with the principles of merit and ability, the special features of the exercise of their right to union membership, the system of incompatibilities and the guarantees regarding impartiality in the discharge of their duties’ (section 103).

Protection against arbitrary dismissal: Public servants may have a general constitutional protection against arbitrary dismissal or other forms of administrative penalty (demotion or unfavourable transfer) being imposed upon them without due process.

- The Constitution of Denmark (1953) provides that the rules governing the dismissal, transfer and pensioning of civil servants shall be laid down by statute, and that they ‘shall not be dismissed except by judgment, nor shall they be transferred against their will’ (section 27, read together with section 64).
- The Constitution of Guyana (1980) provides that ‘No public officer shall be the subject of sanctions of any kind without due process’ (article 38G).
- The Constitution of Zambia (1991) provides that ‘A public officer shall not be victimised or discriminated against for having performed functions in good faith in accordance with this Constitution or other law, or removed from office, reduced in rank or otherwise punished without just cause and due process’ (article 173).

Refusal of unlawful orders: A particular form of constitutional protection is sometimes invoked for those who refuse unlawful orders—on the grounds that, while the public service is supposed to carry out government policy, public servants should not, in a constitutional state founded upon the rule of law, be expected to carry out unlawful orders—but it is very difficult for a public servant to refuse such orders unless they have clear constitutional grounds upon which to do so.

- The Constitution of Austria (1920) prescribes that a ‘subordinate officer can refuse compliance with an instruction if the instruction was given by an authority not competent in the matter or compliance would infringe the criminal code’ (article 20).

Public servants may have a general constitutional protection against arbitrary dismissal.

- The Constitution of Guyana states that ‘In the discharge of his or her duties a public officer shall execute the lawful policies of the government’, but that the public service shall be ‘free from political influence’ and that ‘No public officer shall be required to execute or condone irregular acts on the basis of higher orders’ (article 38G).

In preserving the political impartiality, permanence and professionalism of the public service, constitutions may make a clear distinction between (partisan) political office and public service posts.

3.4. EXCLUSION FROM POLITICAL OFFICE

In preserving the political impartiality, permanence and professionalism of the public service, constitutions may make a clear distinction between (partisan) political office and public service posts. Although in the French-inspired administrative tradition there has, since the beginning of the Fifth Republic in 1958, been a habit of recruiting some ministers from among senior civil servants, there is nevertheless a long-standing sense of the *fonction publique*, or public service, as a defined, recognized, relatively privileged career path, distinct from political life (Ridley and Blondel 1969: 16). French public servants who are elected to Parliament or appointed as ministers are placed on leave of absence from the public service ([French Republic 2018: 27, 114](#)).

The Constitution of Bulgaria (1991) similarly provides that ‘A candidate for a National Assembly seat who is in civil service shall suspend its performance upon the registration of his candidacy’ (article 65(2)).

Crossover between public service and political office is very rare in Westminster model democracies, where ministers are chosen from the ranks of the governing party’s or coalition’s parliamentarians, and where people have to choose, at a relatively early stage in their careers, whether to be politicians or civil servants. Public servants are in many cases ineligible for election. The Constitution of Jamaica (1962) is a typical example, providing that ‘No person shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives who ... holds or is acting in any public office’ (article 40(2)(b)).

Think point

How open or porous is the boundary between public administration and political leadership? Are these two consistently separated career paths, or is there overlap and exchange in personnel between these two pillars of the state? What, in the particular context, are the advantages and disadvantages of a clear separation between government and administration? How difficult is it to maintain that separation?

3.5. PRINCIPLES OF GOOD ADMINISTRATION

Another approach which has a bearing on the regulation of the public service is to establish constitutional principles of 'good administration'. These principles often establish a duty upon government departments to maintain fair and effective bureaucratic processes in the public interest.

- The Constitution of Portugal (1976), for example, states that 'The Public Administration shall seek to pursue the public interest and shall respect all such citizens' rights and interests as are protected by law. Administrative bodies and agents shall be subject to this Constitution, and in the performance of their functions shall act with respect for the principles of equality, proportionality, justice, impartiality and good faith' (article 266). It further declares that 'Citizens shall possess the right to be informed by the Administration whenever they so request as to the progress of the processes in which they are directly interested, as well as to be made aware of such decisions as are taken in relation to them' (article 268).
- The Constitution of Spain provides that 'The Public Administration shall serve the general interest in a spirit of objectivity and shall act in accordance with the principles of efficiency, hierarchy, decentralization, deconcentration and coordination, and in full subordination to the law' (section 103(1)).
- The Constitution of Zambia (article 173) has extensive provisions on the 'guiding values and principles of the public service'. Similar principles and values can also be found in the Constitution of Kenya (article 232).

Leadership codes: In addition to particular principles for the public service, there may be a broader leadership code (or code of public ethics) that applies to all persons in public life, including politicians and judges as well as public servants. Examples of such leadership codes can be found in Chapter 6 of the 2010 Constitution of Kenya, in Chapter 8 of the 1978 Constitution of the Solomon Islands and in Chapter 10 of the 1980 Constitution of Vanuatu. Of course, even when not set out in the constitution, such codes can exist at the statutory level or be dispersed through regulations or administrative regulations—although without the same degree of visibility or the same protection against unilateral destructive change.

Think point

How competent and professional is the public service? Is it the subject of sustained criticism by authoritarian leaders? To what extent is this criticism justified? What measures could be put in place—constitutionally or at a subconstitutional level—to address reasonable criticism? What can be done to challenge unreasonable criticism and show the continued need for good administration? Would a leadership or other similar code simply be empty words, or would it provide an acceptable shared normative basis for the conduct of public servants?

Chapter 4

PUBLIC SERVICE COMMISSIONS

Many countries have a public service commission responsible for ensuring the professionalism and impartiality of the public service. These are particularly found in Commonwealth countries, following the example of the British commission set up in 1855. Accordingly, this chapter mainly draws on examples from these countries. While rare, similar institutions are found elsewhere, in countries with different administrative traditions.

One interesting example is provided by the Republic of China (Taiwan), where the Examination Yuan performs the functions of a public service commission. It is an independent, non-partisan body (1947 Constitution of Taiwan, article 88) responsible for the 'examination, employment, registration, service rating, salary scales, promotion and transfer, security of tenure, commendation, [benefits], retirement, and old age pension' of public servants (article 83).

Another non-Commonwealth example is the National Personnel Authority in Japan, which performs similar functions. Although it is established by ordinary statute (1948 Public Service Law) as an administrative agency under the Cabinet rather than a constitutionally recognized independent body, in practice the Authority functions highly independently from the government ([Mishima 2018](#)). Nevertheless, in the absence of a clear constitutional foundation, the continuation of such functional independence depends upon the willingness of successive governments to respect it.

Many countries have a public service commission responsible for ensuring the professionalism and impartiality of the public service.

4.1. ROLE, POWERS AND FUNCTIONS

Most constitutions that provide for the establishment of a public service commission also set out its role, powers and functions in more or less detail, usually with the stipulation that these powers and functions can be expanded or further defined through ordinary statutes.

Some public service commissions have authority to make public service appointments. Other public service commissions have a strategic responsibility for monitoring the public service, setting procedures and guidelines for appointments, and acting as a body to which appeals can be directed, while allowing actual appointments to be made by ministries.

Public service commission as an appointing body: Some public service commissions, such as those in most Commonwealth Caribbean countries, have authority to make public service appointments. A typical example is found in the 1981 Constitution of Antigua and Barbuda, which states the following: ‘Subject to the provisions of this Constitution, the power to appoint persons to hold or act in offices in the public service (including the power to make appointments on promotion and transfer and to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission’ (section 100).

Public service commission as a monitoring body: Other public service commissions—such as the one in South Africa—have a strategic responsibility for monitoring the public service, setting procedures and guidelines for appointments, and acting as a body to which appeals can be directed, while allowing actual appointments to be made by ministries. While this approach seems more suitable for large jurisdictions, it is worth noting that the effectiveness of the South African Public Service Commission has been questioned, and that the lack of direct appointing power has been blamed for its failure to stop clientelistic hiring practices ([Brunette 2024: 11](#)).

In practice, these two approaches can blur. Even where public service commissions have the power to appoint, they can end up taking on a more strategic overview function, since most appointments, below senior levels, are routinely delegated.

Exceptions for high-level or political appointments: Where appointing powers are vested in public service commissions, it is also usual for a partial exception to be made for certain high-level appointments. This exception typically applies to the roles of secretary to the Cabinet (often the most senior public servant), permanent secretaries (the senior civil servant in each ministry) and some other positions, such as ambassadors. The reasons for this

exception are twofold. Firstly, personnel in these senior positions have to work closely with political leaders, and they have to be able to understand and trust each other. Secondly, while the principles of professionalism, permanence and impartiality should insulate the public service from political influence, there still needs to be some political direction of the public service so that the responsible political leadership can steer the administration in order to achieve the government's policy objectives. In other words, at the very top of the pyramid, political and administrative leadership—although always institutionally and functionally distinct—have to mesh together in order to deliver good government.

This balance—between the political impartiality and professionalism of the public service on the one hand, and the need for ultimate political direction on the other—may take the form of a veto by the political executive over such appointments: the public service commission nominates, but the president or prime minister can reject unsuitable candidates. Alternatively, it may take the form of the political executive merely being required to consult the public service commission in making those appointments—although this latter process has two disadvantages, especially if the political actors can make those appointments from outside the public service: firstly, it offers less protection against corrupt or patronage-based appointments; and secondly, reliance on political, external appointments may degrade experience, institutional memory and continuity.

The 1983 Constitution of Saint Kitts and Nevis uses both of these mechanisms. Permanent secretaries and equivalent officers are appointed by the governor-general on the advice of the Public Service Commission, but before tendering that advice the Public Service Commission must consult with the prime minister and obtain the prime minister's approval of the appointment; if this approval is not forthcoming, then the Public Service Commission must make another nomination (Constitution of Saint Kitts and Nevis, section 79(2)(b)). For ambassadors and high commissioners representing Saint Kitts and Nevis abroad, the prime minister can make his or her own nominations, but if the candidate is currently a civil servant (for example, in the case of an internal appointment by promotion), the prime minister must first consult the Public Service Commission (Constitution of Saint Kitts and Nevis, section 79(2)(c)). This distinction, which gives the prime minister more latitude in the appointment of ambassadors than in the appointment of permanent secretaries, reflects the different degrees of politicization in their

While the principles of professionalism, permanence and impartiality should insulate the public service from political influence, there still needs to be some political direction of the public service so that the responsible political leadership can steer the administration in order to achieve the government's policy objectives.

respective roles. A further exception may be made for special advisors, who provide political assistance to ministers and are not members of the public service, and also for members of the personal staff (domestics, drivers, private and press secretaries) of the head of state.

Promotion and transfer: As noted above, constitutions often protect public servants from arbitrary removal. This is a necessary precondition of their political neutrality because it prevents an incoming government from dismissing and replacing its predecessor's appointees. However, removal is not the only means by which political leaders can attempt to exert patronage control over the public service. The powers of promotion and transfer, including the 'stick' of demotion or transfer to less desirable posts, can also be manipulated if proper safeguards are not in place. This is why, when appointing powers are vested in a public service commission, it is also useful to include 'the power to make appointments on promotion and transfer' and 'the power to exercise disciplinary control' over the public service (see Constitution of Antigua and Barbuda, article 100(1), above), but equivalent wording occurs in many similar constitutions.

Codes of conduct: Public service commissions may have a role in the development of codes of conduct for public servants. Such a role is mandated, for example, in article 234(2)(g) of the 2010 Constitution of Kenya.

4.2. COMPOSITION OF A PUBLIC SERVICE COMMISSION

Many of the principles concerning the appointment of other independent commissions also apply to public service commissions. These are discussed in full in International IDEA's Constitution-Building Primer No. 19 (*Independent Regulatory and Oversight (Fourth-Branch) Institutions*). However, for clarity and convenience, a variety of mechanisms for forming a public service commission are set out in Table 4.1.

A key consideration is the degree to which the public service commission is insulated from partisan influence, and in particular from the control or patronage of the political executive, while also providing accountability mechanisms. It is in the design of these

institutions that tensions between democratic responsibility, on the one hand, and meritocracy and impartiality, on the other hand, are played out. Is the public service commission to be regarded as an auxiliary body to the political executive, performing its functions at arm's length from the political executive, but under a form of functional delegation, rather than real autonomy? Or is the public service commission to be regarded as an independent and autonomous institution?

In contrast to other independent (fourth-branch) commissions—such as electoral commissions, boundaries commissions and human rights commissions—where the balance and inclusion of different parties is often a stronger consideration, public service commissions have traditionally been more closely associated with the executive. After all, the public service is a structured hierarchy responsible for carrying out government policy, and it has to be responsive to the direction of the political executive. Nevertheless, this is a matter of delicate balance. If the public service commission is too closely under the control or influence of the political executive, such that political pressure and patronage can be brought to bear on public service appointments, then the commission will not be able to ensure the impartiality, integrity and professionalism of the public service. A public service commission that is captured by the party in government may simply facilitate corruption, nepotism and patronage, with all that this means for poor governance and bad developmental outcomes.

A key consideration is the degree to which the public service commission is insulated from partisan influence, and in particular from the control or patronage of the political executive, while also providing accountability mechanisms.

Table 4.1. Composition of public service commissions

Composition	Description	Examples	Pros	Cons
Unilateral executive appointments	In a parliamentary system, unilateral executive appointment usually takes the form of nominal appointment by the head of state, acting on the binding advice of the prime minister.	1962 Constitution of Samoa (article 84(1))	Gives the executive a good grip on the public service, prevents policy resistance by the public service, and enables relatively rapid changes of direction or policy in relation to public service personnel management according to political directives.	Lack of real neutrality and independence makes the public service vulnerable to political patronage and clientelist politics, undermining the principles of non-partisanship, permanence and professionalism—and thereby, perhaps, public service effectiveness.
	In a presidential system, the public service commission may be appointed unilaterally by the president.	2013 Constitution of Zimbabwe (section 202)		
Consultation with the leader of the opposition	Executive appointment, but after consultation with the leader of the opposition.	1964 Constitution of Malta (article 109(2))	In principle, consultation with the leader of the opposition is supposed to limit excessive partisanship and result in mutually acceptable appointees.	In practice, even where 'meaningful consultation' is constitutionally defined, the government can usually insist on its own appointees.

Table 4.1. Composition of public service commissions (cont.)

Composition	Description	Examples	Pros	Cons
Inclusion of representative members	Certain public service commission members are appointed by, or on the advice of, specific groups (typically, trade unions representing public servants).	1973 Constitution of Grenada (section 83) 1962 Constitution of Jamaica (section 124(2))	Ensures that the voices of public servants are heard through their unions, for fairer employment practices and better retention and morale.	Applies only to a minority of members (normally one or two), so is not a basis for the composition of the public service commission as a whole.
Multi-institutional appointments I: Split appointments	Mixed appointment mechanisms in which some public service commission members are appointed by one body (e.g. the president) and others by another body (e.g. the legislature).	1980 Constitution of Guyana (article 200)	In principle allows for a balanced or moderated composition in which no one institution or branch of government has sole appointing power.	It is necessary to think in terms of separation of parties: if the president and the legislative majority are of the same party, are there really any checks and balances? Allowing the (leader of the) opposition to appoint some of the members, and supermajority rules or minority-inclusion rules may help overcome this lack of checks and balances (e.g. in South Africa, nominees of the National Assembly must be approved by a proportionally representative committee of all political parties).
Multi-institutional appointments II: Joint appointments	Public service commission members are appointed by one body (e.g. the president) with the approval of another (e.g. the legislature).	2010 Constitution of Kenya (article 233) 1996 Constitution of South Africa (article 196)		

Table 4.1. Composition of public service commissions (cont.)

Composition	Description	Examples	Pros	Cons
Appointments by another independent body	Members of the public service commission are appointed by another independent or cross-party body which has a specific remit to make appointments to certain constitutional offices.	2013 Constitution of Fiji (sections 125 and 132) 1978 Constitution of Sri Lanka (articles 41A and 41B) 1975 Constitution of Papua New Guinea (section 190)	In principle, there are two degrees of separation between the public service and the political executive: another body, with a broader membership, sits between them, to appoint the public service commission.	Effectiveness depends upon the composition of the appointing body: does the government have an in-built majority (as in Fiji)? If so, appointments by another independent body may simply be a form of executive appointment with extra steps.

Source: Developed by the author.

4.3. TENURE AND INDEPENDENCE OF PUBLIC SERVICE COMMISSIONS

In addition to the appointment mechanism, it is necessary to ensure the functional independence and political neutrality of the public service commission in other ways. Again, these are common to other independent commissions, discussed in Primer No. 19, and here it is necessary only to highlight some specific considerations to be borne in mind when drafting or amending constitutions.

Qualifying experience: Given the importance of the public service commission to good government and effective administration, it is important that its members have the right qualifying experience. One relatively common approach is to require certain members of the public service commission to have had specified qualifying experience as public servants. In India, for example, the 1949 Constitution requires half of the members of the Union Public Service Commission to be individuals who have held office in the public service for at least 10 years (proviso to article 316(1)). Alternatively, broader wording may be used to require the appointment of suitable candidates. The Constitution of South Africa, for example, requires each member of the Public Service Commission to be ‘a fit and proper person with knowledge of, or experience in, administration, management or the provision of public services’ (article 196(10)).

Disqualifications: Members of the public service commission should be non-partisan. At the very least, they should not be active politicians. Many countries therefore prohibit members of parliament, or even people who have recently been candidates for election to a partisan office, from appointment to the public service commission. See, for example, the 1966 Constitution of Botswana (section 109) and the 1964 Constitution of Malta (article 109). The 2010 Constitution of Kenya (article 233(4)) bans former elected office-bearers and candidates from appointment to the Public Service Commission until two intervening general elections have taken place—a period of at least five years. Sometimes, judges are disqualified from membership of the public service commission—as in Dominica (1978) (section 84(2)) and Grenada (section 83(2)). This is an unusual provision (serving or retired judges are often good candidates for service on independent commissions because of their legal knowledge, experience of bearing responsibility and assumed impartiality), but it might be useful in small countries, where there is a densely connected and highly partisan political class and a relatively small pool of suitable candidates, in order to prevent over-reliance on judges at the expense of other candidates who might better understand the practicalities of public service management.

Tenure of office: In general, public service commission members serve for a fixed term, which may or may not be renewable. A crucial consideration is whether the fixed term of the members is longer or shorter than the standard electoral cycle. In principle, a longer term of appointment better decouples the public service commission from the electoral cycle. Thus, the arrangement in Kenya, where members of the Public Service Commission serve for a non-renewable term of six years (Constitution of Kenya, article 250(6))—a year longer than the usual five-year electoral cycle—should, all other things being equal, better assure the independence and impartiality of the Public Service Commission than the arrangement in Grenada, where members of the Public Service Commission serve renewable terms of three years (Constitution of Grenada, section 83(3)), two years less than the five-year electoral cycle. Constitution-makers may also consider a rolling or staggered membership of the public service commission so that there is a gradual turnover of members over time rather than a total replacement of the commission at any one point. In addition to diffusing the effect of the incumbent political majority, staggered membership preserves institutional memory and encourages more seamless operation without the difficulty of a wholly new commission having to relearn or re-invent procedures.

The members of public service commissions must be protected from unilateral dismissal or dismissal without due cause.

Removal from office: The members of public service commissions must be protected from unilateral dismissal or dismissal without due cause. There are many kinds of removal processes, but they usually involve some independent or cross-party determination of unfitness or misconduct.²

- In India, for example, a member of the Union Public Service Commission can be removed from office by order of the president only after the Supreme Court has inquired into the matter and has found grounds of misbehaviour (Constitution of India, article 317(1)). In addition, the president can also remove a member who is insolvent, engages in any paid employment outside the duties of his or her office, or 'is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body' (Constitution of India, article 317(3)).
- The Constitution of Fiji provides that a member of the Public Service Commission may be 'removed from office for inability to perform the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and may not otherwise be removed' (article 137(1–4)). The determination as to inability is made by a medical board appointed by the Constitutional Offices Commission, while the determination on misbehaviour is made by a tribunal, also appointed by the Constitutional Offices Commission. The president must then act on the binding advice of that medical board or tribunal. Similar provisions can be found elsewhere, including in Botswana (Constitution of Botswana, section 109(7)) and Grenada (Constitution of Grenada, section 83(7)). In these cases, the intent is clearly to depoliticize the removal process as far as possible: no parliamentary vote is required, and the question of removal is handled by a small body, operating in a quasi-judicial manner, giving binding advice directly to the head of state.
- In Kenya, there is also a tribunal—chaired by a judge—to advise the president on the removal of a member of the Public Service Commission. The process of removal begins with a petition to the National Assembly, and the National Assembly must first vote on

2 For more information on the removal of members of independent commissions in general, see International IDEA, *Independent Regulatory and Oversight (Fourth-Branch) Institutions*, Constitution-Building Primer No. 19 (Stockholm: International IDEA, 2019), <<https://doi.org/10.31752/idea.2019.27>>. For more information about the removal of judges, which in many cases is similar to the removal of public service commissioners, see *Judicial Tenure, Removal, Immunity and Accountability*, Constitution-Building Primer No. 5 (Stockholm: International IDEA, 2014), <<https://www.idea.int/publications/catalogue/judicial-tenure-removal-immunity-and-accountability>>, accessed 6 June 2026.

the matter before it is sent to the tribunal. Grounds for removal are serious violations of the Constitution or any other law, gross misconduct, physical or mental incapacity, incompetence or bankruptcy (Constitution of Kenya, article 251).

There are pros and cons to involving parliament in the removal of members of public service commissions. On the one hand, the need for consideration by parliament provides democratic transparency and legitimacy. On the other hand, it may politicize—and make more partisan and more divisive—a process which is supposed to be impartially decided on its merits. If parliament is involved, a mechanism that is likely to ensure cross-party approval—such as a two-thirds majority requirement—can help to prevent the abuse of this power, although even such a mechanism may be an insufficient protection in contexts where the governing party or coalition holds a supermajority of seats.

Avoiding post hoc conflicts of interest: Another means of ensuring impartiality and preventing conflicts of interest applies after a person has served on the public service commission. In India, for example, former members of the Public Service Commission cannot hold any other employment under the Government of India or of any state (Constitution of India, article 319); similar provisions are found in the Constitution of Singapore (1963) (article 105(6)). However, it is not necessary to have a lifetime ban; a gap of several years may be sufficient to ensure that former members of the public service commission do not abuse their position in order to unfairly gain employment for themselves. In Grenada, for example, a former member of the Public Service Commission is ineligible for appointment to a public office for a period of three years from the date upon which he or she ceased to be a member of the Commission (article 83(3)).

There are pros and cons to involving parliament in the removal of members of public service commissions. If parliament is involved, a mechanism that is likely to ensure cross-party approval can help to prevent the abuse of this power.

Think point

Is there a public service commission in your country? If not, is there value in creating one? If there is such a commission, was it established on a clear and robust constitutional basis? How is it composed? Is it in practice captured by the political executive or by political parties, or does it maintain its neutrality and impartiality? How could the constitution help strengthen the public service commission and make it more effective?

4.4. SPECIALIZED SERVICE COMMISSIONS

The public service commission's reach might not extend to particular departments or branches of the public sector if separate commissions are established for those purposes.

Police service commissions: In 16 countries—all Commonwealth countries, from Antigua and Barbuda to Zambia—appointments to the police are made by, or under the direction and supervision of, a dedicated police service commission.

Although the establishment of yet another commission adds expense and complexity, this arrangement recognizes that the police are a powerful institution in society, whose political neutrality is essential to the rule of law, and whose public accountability is essential to democracy, and which therefore calls for a dedicated oversight body. It also recognizes that the police service has its own institutional hierarchy, professional standards and training requirements, all of which can be reflected in a specialized commission, similar in principle and purpose to the public service commission, but with an exclusive focus on the police and a composition that includes uniformed senior police officers.

As with public service commissions (see 5.2: Federalism), police service commissions may be established nationally, as in Kenya (article 246) and Sri Lanka (article 155A), but there may also be scope for subnational police service commissions responsible for subnational policing (as in Sri Lanka (article 155G), where there are also provincial police service commissions for each province).

Teaching service commissions: Several countries—such as Guyana, Kenya, Trinidad and Tobago, and Zambia—also have a teaching service commission responsible for the appointment of teachers in publicly funded schools. A teaching service commission extends to teachers the same sort of protections—political neutrality, protection from arbitrary dismissal—that are enjoyed by public servants. The existence of such commissions also reflects the fact that, especially in a developing society and in rural areas, teachers are an important voting bloc and influential opinion formers.

Think point

Is there a real need for separate commissions for the police, teachers or any other specialized branch of the public service? Do these additional commissions help distinguish these services from the general administrative service? Do they help maintain professional standards and ethos? Or are they an unnecessary duplication?

4.5. PUBLIC SERVICE APPEALS

If the public service commission makes decisions about the appointment, promotion and discipline of public servants, situations may arise in which individuals consider themselves to have been treated unfairly. There is, therefore, a need for an appeal process by which these decisions can be reviewed. For this reason, some countries establish a public service appeal board or similar body.

Such bodies are a particular feature of Commonwealth Small Island States in the Caribbean and South Pacific, in part because they are especially needed in very small societies, with a densely overlapping political–administrative elite. Similar institutions may be established in other places, however, if there is a need for an additional check on the public service commission.

- In Saint Vincent and the Grenadines, the Public Service Appeal Board consists of four members: one is appointed by the governor-general at their own discretion, one is nominated by the prime minister, one is chosen by the Civil Service Association, and one is chosen by the Police Welfare Association (1979 Constitution of Saint Vincent and the Grenadines, section 86). As its composition suggests, the Board hears appeals from both the Public Service Commission and the Police Service Commission.
- Given the quasi-judicial nature of the functions of a public service appeal board, it is not unusual for a judge to be chosen as chair of such a body. In Samoa, for example, the chair of the Public Service Appeal Board must be the chief justice, another judge nominated by the Chief Justice or, failing that, a lawyer nominated by the Judicial Services Commission. Besides this judicial chair, the Board also consists of one person who is nominated by the prime minister and one who is elected by members of the public service (1962 Constitution of Samoa, section 89).

- In some countries, the functions of a public service appeal board are vested in some other body: in Jamaica, in the Privy Council of Jamaica (1962 Constitution of Jamaica, sections 82 and 125), and in Belize, in the Belize Advisory Council (1981 Constitution of Belize, sections 54 and 111(2)). These bodies, however, may have a broader remit which also includes advising on the prerogative of pardon.

Note: In civil law countries, public service appeals may ultimately be heard by the council of state as the supreme administrative court, although constitutions do not usually make express provision to that effect.

Chapter 5

CONTEXTUAL CONSIDERATIONS

5.1. INCLUSION AND DIVERSITY

'Inclusion' in this context means the extent to which the public service reflects the diversity of the society that it serves, in terms of gender, ethnicity, religion, socio-economic background or other characteristics. In some contexts, where it is necessary to build trust and cohesion, visible inclusion of different groups may be essential to the effectiveness of the public service. This is particularly the case in deeply divided societies where the public service has previously been dominated by one or more groups to the exclusion of others. Ensuring inclusivity in public service appointments might also be a way by which the state can help to overcome structural barriers to advancement faced by people from certain historically disadvantaged groups.

Inclusion can begin at the top, in the composition of the public service commission itself. The Constitution of Kenya, for example, establishes the principle 'that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya' (article 250(4)).

India has constitutional provisions designed to promote inclusion through affirmative action for Scheduled Castes and Tribes and Other Backward Classes (articles 15(4), 16(4)(A), 16(4)(B) and 335). While the arrangement has led to better representation of disadvantaged groups in the public service, it has also given rise to many practical problems, perceived injustices and judicial challenges—not least because of the disparity between a person's group identity and their individual situation (such as when a person who is personally wealthy and well connected belongs to a Scheduled Caste or Tribe).

Visible inclusion of different groups may be essential to the effectiveness of the public service.

South Africa, at the end of apartheid, inherited a system where 95.5 per cent of the top 3,239 civil servants were white, and only 0.6 per cent were Black (Franks 2014). The injustice and unacceptability of this disparity was recognized in the 1996 Constitution, which responded by including an overarching constitutional requirement that 'Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation' (article 195(1)(i)). This provision established a constitutional basis for a comprehensive affirmative action programme. However, lacking robust recruitment processes and training, the result has been the politicization of the public service (Franks 2014).

5.2. FEDERALISM

In federal systems, an important consideration is whether there should be one public service commission (and one unified public service) for the whole country, or whether there should be separate arrangements at the federal and state, provincial or regional levels.

The choice of whether to have just one public service commission or separate federal and state public service commissions will be influenced by the size of the federation, its resources and the extent of the public service to be administered.

Again, India and South Africa provide useful contrasts. The Constitution of India establishes both a Union Public Service Commission, for regulation of the service at the federal level, and State Public Service Commissions, for the state level (article 315), whereas the Constitution of South Africa establishes only one Public Service Commission for the whole country (article 196(1)). The choice of whether to have just one public service commission or separate federal and state public service commissions will be influenced by the size of the federation, its resources and the extent of the public service to be administered: South Africa is not a small country, but India is many times bigger. The sheer scale of the task would be overwhelming if, in India, one body were responsible for both federal and state levels of government.

Another factor to consider is the degree of heterogeneity among the population (in particular, whether there is a language barrier that would disadvantage certain sections of the population if there were only one public service commission) and the desired degree of centralization or decentralization.

The Constitution of Malaysia has a flexible arrangement, according to which states (except for Malacca and Penang) may set up their

own public service commissions, but if a state does not do so, then the federal Public Service Commission has authority over the public service of that state. State legislatures may also confer certain powers upon the federal Public Service Commission or revoke such powers (1957 Constitution of Malaysia, article 139(2)).

Germany provides for a division between ‘civil servants employed by the highest federal authorities’, who ‘shall be drawn from all Länder in appropriate proportion’, and ‘persons employed by other federal authorities’, who ‘shall, as a rule, be drawn from the Land in which they serve’ (Basic Law, article 36(1)).

In Sudan, at the time of independence, there was even a proposal to create two separate public service commissions in an otherwise unitary state—one public service commission for the (mainly Muslim, predominantly Arab) north, and one for the (mainly non-Muslim, African) south of the country—so that southerners would not be discriminated against by northerners in the distribution of public employment in their own region (Kumarasingham 2015).

5.3. INDIGENOUS ADMINISTRATION

In some countries, elements of traditional village administration, or tribal or customary leadership, may be recognized by the state and may perform administrative functions on behalf of the state without necessarily being part of the public service. In Sudan, this arrangement is referred to (without pejorative connotations) as the Native Administration, a recognized and structured three-layer system of sheikhs, *omdas* and paramount chiefs who resolve disputes, manage resources, and act as interlocutors between local communities and external actors—whether the state or aid agencies (Bottjen 2022).

In countries where such institutions might exist, a key question is whether to give them formal recognition, and thus a position and role within the legal–political system of the state, or whether they should exist solely outside the state, essentially as civil society organizations. In many cases, however, this decision will already have been taken, in previous generations, and there might be an existing statutory, if not constitutional, framework. The question then becomes whether to give this administration special constitutional recognition and protection. The 2009 Constitution of Bolivia, for

In some countries, elements of traditional village administration, or tribal or customary leadership, may be recognized by the state and may perform administrative functions on behalf of the state without necessarily being part of the public service.

example, makes extensive provision for rural native Indigenous autonomies (articles 289–96).

In some countries, a career in the public service is highly valued and is the object of intense competition. It brings not only material rewards, but also social status and esteem. This means the public service can attract top talent.

5.4. STATUS AND ESTEEM OF THE PUBLIC SERVICE

The status and esteem of the public service is another contextual consideration to bear in mind for those designing or revising constitutional provisions.

In some countries, a career in the public service is highly valued and is the object of intense competition. It brings not only material rewards, such as security of employment and a good pension, but also social status and esteem. This means the public service can attract top talent. In France, for example, graduation from the National School of Administration, a highly selective institution that trains students for senior civil service roles, has long been regarded as a ticket into the country's ruling elite, with many former presidents and ministers among its alumni (Cuddy 2019). In India, a whole industry of schools and tutorial colleges exists to coach aspirants for the highly competitive Union Public Service Commission examinations leading to a post in the Indian Administrative Service. In some other countries, the public service is seen as a less desirable career path, with the best talent being drawn towards the private sector. It is only to be expected that, in the latter case, the quality of administration—and the morale and *esprit de corps* of the public service—may suffer. While a constitution cannot directly change such things, which are often deeply ingrained in a country's political culture, habits and expectations, it is nevertheless wise for constitution-makers to be aware of these considerations. Constitutional recognition of the role of the public service, a commitment to merit-based selection and promotion, and protection for salaries and pension entitlements may help the public service attract the best candidates and thereby help build the state capacity needed for socio-economic development.

Think point

What is the social status of the public service in a particular country? Is it seen as a high-status career track that attracts the best candidates, or is it held in lesser regard? What could be done—constitutionally or through subconstitutional means—to improve the social status and perception of the public service?

Chapter 6

DECISION-MAKING QUESTIONS

1. Is there public awareness of the need for good administration?
In a civic education campaign supporting a constitutional reform process, has the public administration been given adequate attention?
2. What is the right balance between meritocracy and democracy?
Does the political executive have too much, or too little, control over the public administration? If there is an attempt to redress that balance, what steps will be taken to avoid over-correction, to the point at which the opposite problems arise?
3. What does the current or former constitution say (and not say) about the public service? How effective have these provisions been? What problems or difficulties have arisen? How adequately have existing constitutional provisions addressed these problems? Do the provisions themselves pose an obstacle to addressing these problems?
4. What are the prevailing traditions of the public service? Does the public service have a reputation for integrity, probity, fairness, effectiveness and efficiency? Or is it seen as corrupt, lethargic or incompetent? Can constitutional regulation provide an opportunity to renew the public service? What institutional changes are needed to achieve that goal?
5. Is there a public service commission? What is its mandate? Is it neutral and impartial, captured by the governing party or a site of political competition between parties? How can the mandate, composition, tenure and structure of the public service commission be reformed to prevent such capture while still ultimately providing adequate political accountability?

6. Is the public service ethos robust and healthy? If not, what could be done—through constitutional and subconstitutional means—to restore and strengthen it? Is there a need to establish a public service code of conduct in the constitution?
7. Are there particular societal divisions—whether federal or otherwise—that need to be addressed through the structure of the public service? If a country is federalizing or decentralizing, is there a need for separate public services and public service commissions at the provincial, regional or state level?
8. What role do special advisors play? Has there been a habit of entrusting public power to private individuals who have a personal link to the leader of the government but who do not themselves occupy either a ministerial or official position? What steps might a constitution take to regulate special advisors and to prevent the abuse of power?

Chapter 7

EXAMPLES

Tables 7.1 and 7.2 show how constitutions can recognize and regulate the public service, and how they can set out values and principles for good government.

Table 7.1. Constitutional recognition and regulation of the public service

Costa Rica	191. A statute of civil service will regulate the relations between the State and the public servants, for the purpose of guaranteeing the efficiency of the administration. 192. With the exceptions that this Constitution and the statute of civil service determine, the public servants will be appointed on the basis of proven suitability and they may only be removed for the causes of justified dismissal that the legislation concerning labour expresses, or in the case of a forced reduction of services, either for a lack of funds or to achieve a better organization of the same.
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Table 7.1. Constitutional recognition and regulation of the public service (cont.)

Denmark	<p>27. (1) Rules governing the appointment of civil servants shall be laid down by Statute. No person shall be appointed a civil servant unless he is a Danish subject. Civil servants who are appointed by the King shall make a solemn declaration to the effect that they will adhere to the Constitution Act.</p> <p>(2) Rules governing the dismissal, transfer, and pensioning of civil servants shall be laid down by Statute, confer section 64.</p> <p>(3) Civil servants appointed by the King shall only be transferred without their consent if they do not suffer any loss in the income accruing from their posts or offices, and if they have been offered the choice of such transfer or retirement on pension under the general rules and regulations.</p> <p>64. In the performance of their duties the judges shall be directed solely by the law. Judges shall not be dismissed except by judgment, nor shall they be transferred against their will, except in the instances where a rearrangement of the courts of justice is made. However, a judge who has completed his sixty-fifth year may be retired, but without loss of income up to the time when he is due for retirement on account of age. [Note: this protection applies to judges, but under subsection (2) of section 27, it is also extended to civil servants.]</p>
Germany	<p>33. (4) The exercise of sovereign authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty defined by public law.</p> <p>(5) The law governing the public service shall be regulated and developed with due regard to the traditional principles of the professional civil service.</p> <p>36. (1) Civil servants employed by the highest federal authorities shall be drawn from all Länder in appropriate proportion. Persons employed by other federal authorities shall, as a rule, be drawn from the Land in which they serve.</p>
Spain	<p>103. (2) The organs of State Administration are set up, directed and coordinated in accordance with the law.</p> <p>(3) The law shall lay down the status of civil servants, the entry into the civil service in accordance with the principles of merit and ability, the special features of the exercise of their right to union membership, the system of incompatibilities and the guarantees regarding impartiality in the discharge of their duties.</p>

Source: Developed by the author.

Table 7.2. Constitutional recognition of values and principles of good government

Kenya	<p>232 (1) The values and principles of public service include-</p> <ul style="list-style-type: none"> (a) high standards of professional ethics; (b) efficient, effective and economic use of resources; (c) responsive, prompt, effective, impartial and equitable provision of services; (d) involvement of the people in the process of policy making; (e) accountability for administrative acts; (f) transparency and provision to the public of timely, accurate information; (g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions; (h) representation of Kenya's diverse communities; and (i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of- <ul style="list-style-type: none"> (i) men and women; (ii) the members of all ethnic groups; and (iii) persons with disabilities.
Portugal	<p>266. (1) The Public Administration shall seek to pursue the public interest and shall respect all such citizens' rights and interests as are protected by law.</p> <p>(2) Administrative bodies and agents shall be subject to this Constitution, and in the performance of their functions shall act with respect for the principles of equality, proportionality, justice, impartiality and good faith.</p> <p>268. (1) Citizens shall possess the right to be informed by the Administration whenever they so request as to the progress of the processes in which they are directly interested, as well as to be made aware of such decisions as are taken in relation to them.</p>
Spain	<p>103. (1) The Public Administration shall serve the general interest in a spirit of objectivity and shall act in accordance with the principles of efficiency, hierarchy, decentralization, deconcentration and coordination, and in full subordination to the law.</p>

Table 7.2. Constitutional recognition of values and principles of good government (cont.)

Zambia	<p>173. Values and principles of public service:</p> <p>(1) The guiding values and principles of the public service include the following—</p> <ul style="list-style-type: none"> a. maintenance and promotion of the highest standards of professional ethics and integrity; b. promotion of efficient, effective and economic use of national resources; c. effective, impartial, fair and equitable provision of public services; d. encouragement of people to participate in the process of policy making; e. prompt, efficient and timely response to people’s needs; f. commitment to the implementation of public policy and programmes; g. accountability for administrative acts; h. proactively providing the public with timely, accessible and accurate information; i. merit as the basis of appointment and promotion; j. adequate and equal opportunities for appointments, training and advancement of members of both genders and members of all ethnic groups; and k. representation of persons with disabilities in the composition of the public service at all levels. <p>(2) The values and principles specified in clause (1) apply to service—</p> <ul style="list-style-type: none"> a. at national, provincial and local government levels; and b. to all State organs and State institutions. <p>(3) A public officer shall not be—</p> <ul style="list-style-type: none"> a. victimised or discriminated against for having performed functions in good faith in accordance with this Constitution or other law; or b. removed from office, reduced in rank or otherwise punished without just cause and due process.
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Source: Developed by the author.

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Where to find constitutions referred to in this primer

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Ar: Arabic, En: English; Fr: French; My: Burmese; Sp: Spanish; Vi: Vietnamese;
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We develop policy-friendly research related to elections, parliaments, constitutions, digitalization, climate change, inclusion and political representation, all under the umbrella of the UN Sustainable Development Goals. We assess the performance of democracies around the world through our unique Global State of Democracy Indices and Democracy Tracker.

We provide capacity development and expert advice to democratic actors including governments, parliaments, election officials and civil society. We develop tools and publish databases, books and primers in several languages on topics ranging from voter turnout to gender quotas.

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An effective, politically neutral public service is essential to democratic governance, the rule of law and the prevention of state capture. While constitutions rarely regulate the public service in detail, many establish its core principles, foundations and oversight mechanisms.

This primer examines how constitutions can support a professional, inclusive and accountable public service. Drawing on comparative constitutional practice, with particular attention to public service commissions and examples from Commonwealth and other systems, it offers guidance for constitution-makers considering how best to regulate the public administration.

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