

Empirical evidence on the practice of latitude of discretion in personnel selection: Basis for an informed intervention

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ABSTRACT

This study addresses the notable gap in understanding the application of latitude of discretion in personnel selection. It then adds value to the practice and existing literature in public personnel administration by presenting empirical data on how the latitude of discretion was applied and justified. The qualitative exploratory case study design was adopted due to the limited research on the topic. This study was conducted in a government agency in Baguio City, Philippines. Participants were chosen through purposive sampling using the following criteria: they must be directly involved in the agency's recruitment process and willing to participate in the study. Document analysis and member checks were also employed to add weight to the accuracy and validity of the findings. Data were treated using the thematic analysis. The findings reveal that despite a rigorous recruitment process comprising vacancy postings, initial screenings, aptitude tests, and panel interviews, most hires were from rank 5 rather than higher-ranked applicants.

Additionally, the study highlights that subjective criteria such as "attitude" and "work experience" affected the hiring decisions of the appointing officers. The research contributes to the broader discussion on integrating discretion with merit-based criteria in personnel selection. It provides empirical evidence on the application of discretion, emphasizing the importance of developing detailed guidelines to ensure hiring practices are fair and aligned with organizational goals. This insight is crucial for improving recruitment processes' transparency and accountability, aligning with Weber's Bureaucratic Theory and Administrative Control Theory.

1. Introduction

While discretionary power is intended to provide room for flexibility in decision-making, it brings about issues of favoritism, bias, and corruption if not appropriately managed. Despite the risks, several countries have embraced the concept of the wide latitude of discretion in terms of management. Lewis and Waterman (2013), and Panizza et al. (2018) discuss how the U.S., for instance, follows a merit-based system for lower-level positions. Still, presidential discretion is applied for higher-level appointments. On the other hand, Chouhan (2019), King and Allen (2010) clarify that the India Prime Minister and other senior officials can appoint individuals to

key positions. It is worth noting, however, that Galukande-Kiganda et al. (2024) have found that Uganda's model of discretion evolved from limited discretion. Wide latitude of discretion, and this postmodern now becomes constrained and accountable discretion. Chan Robles Virtual Law Library (2017) defines discretion as lawful freedom given to an officer to make judgments. It allows the officer to consider the various factors and circumstances that may not be explicitly covered by existing regulations and thus make its decisions fit the situation.

While several research studies were conducted to understand the application of discretion in an organization, the literature focuses on discretion in general and the routinary discretion in leadership. This is evidenced by the works of various authors such as Wangrow et al. (2014), Youssef and Christodoulou (2018), Benn (2024), Crossland and Hambrick (2011), and Chouhan (2019). There is a significant knowledge gap, specifically on the application of discretion in personnel recruitment, which should be looked into considering that the success of the institution depends on the caliber of the workforce that steers its day-to-day affairs, as argued by Islam (2013) and Salsabila (2022). This gap highlights the need for research exploring how discretion is applied in appointment contexts and its implications for fairness and transparency since discretion is dynamic, as Finkelstein and Peteraf (2007) argued.

In the Philippines, government entities must comply with the standards and rules of the Civil Service Commission (CSC). The Omnibus Rules on Appointments and Other Human Resource Actions (ORAOHRA) (Civil Service Commission, 2018) are among the set standards. ORAOHRA provides competency-based screening, selection, and placement qualification standards for a position, both for entry-level positions and positions for promotion, which all government agencies are required to follow rigorously.

Despite standards, appointments remain controversial. A notable issue arises from the legalized practice of discretion by the appointing officer. With the ORAOHRA, a Human Resource Merit Promotion and Selection Board (HRMPSB) in each agency may be constituted to conduct a judicious and objective screening of candidates. If applicable, the screening procedure includes education, training, experience, and eligibility. After ranking, the list of the top five candidates is forwarded to the appointing officer. Then, the appointing officer "may exercise sound discretion" to select and appoint from among the top five candidates, not necessarily the number one.

Historically, many cases have been filed of the alleged abuse of discretion by appointing officers. However, in the case of Teodoro G. Barrozo, petitioner, versus the Civil Service Commission, the Supreme Court ruled that the appointing authority had lawfully used its discretion and that nothing was violated (The Lawphil Project, n. d). A similar defense was offered by a former mayor surrounding the controversy on the application of its discretionary power, asserting that the appointment of personnel is based on the qualifications in terms of education, eligibility, training, and performance, which are the primary criteria for determining qualified applicants for various vacant positions in the local government (Youssef & Christodoulou, 2018).

In appointments where the appointing officers are given the latitude of discretion, studies revealed that such a decision may easily be subject to personal connections, political affiliations, and other factors irrelevant to merit, which, according to Ekwoaba et al. (2015) would defeat the legitimacy of selection and would further implicate corruption activities. This is supported by the arguments of Sancino et al. (2017) and Tilley and Ndlebe (2021) that the wide latitude of discretion raises essential concerns about fairness, transparency, and institutional effectiveness.

This paper argues that knowing how discretion works would help reveal biases, transparency, and the improvement of better processes in decision-making. Further, it argues that the application of discretionary power by the appointing officer needs to be understood in context. With these, the researcher documented the practice of latitude of discretion and explored the motives behind why discretion is practiced despite the existence of stringent processes for public personnel selection. The study contributes to the unexplored knowledge on the application of discretion in personnel selection. It presents an essential basis for an informed intervention in the merit and selection process by answering the specific questions:

A) How is the latitude of discretion of the appointing authority applied from 2015 to 2019?

B) What are the justifications for the appointing authority's use of the wide latitude of discretion?

2. Theoretical basis

This study is grounded on two theories: 1) Max Weber's Bureaucratic Theory and 2) Administrative Control Theory.

Max Weber's Bureaucratic Theory promotes a structured and rule-based approach to governance, focusing on the need for formal procedures, hierarchy, and standardized qualifications to maintain fairness, consistency, and transparency in public administration (Serpa & Ferreira, 2019). As argued by Du Gay and Pedersen (2020), discretionary power becomes an instrument that the officials use to exercise decisions based on their judgment and perception of the prevailing circumstances. Yet, Weber's Bureaucracy provides a strong theoretical framework that while discretion is practiced, it should not deviate from the principles of rule-based governance and meritocracy. In this sense, in terms of personnel selection, a strategic screening and selection process is needed because, as Rodriguez (2017) puts it, the employees directly affect the success of any organization. Many studies indicated that effective recruitment and selection enhance productivity, decrease turnover, increase job satisfaction, and increase the engagement and commitment of workers (Lavigna & Hays, 2004). Effective practices in recruitment and selection can result in improved institutional outcomes. The better the institutions recruit and select candidates, the more effective they will be at hiring and retaining satisfied employees.

Further, Administrative Control Theory (ACT) emphasizes having clear-cut guidelines and limited discretion with enhanced accountability. Therefore, the relevance of the ACT pertains to its enhancement of discretion reduction and creating a more predictable and controlled environment when it comes to making decisions. In this study, the hiring process was institutionalized. First, the human resource office will post the vacancy; second, they will review whether the applicant passed the minimum requirements for the job, let those who passed the minimum standards undergo the aptitude or skills tests, conduct panel interviews, and prepare the comparative assessment form showing the ranking of the applicants. This theory also emphasizes the importance of evaluation and continuous improvement in the process to further enhance the fairness and consistency of appointments and strengthen accountability (Boateng, 2020).

In the context of this research, where the appointing officer can select from the top 5 most qualified applicants, Weber's bureaucratic theory and the Administrative Control Theory emphasize that hiring should be based on merit rather than personal connections or political influence. The theories also emphasize the importance of having clear guidelines to follow to reduce the latitude of discretion and the importance of evaluation and continuous improvement. According to this theory, constricting the latitude of discretion means bias is diminished, and decisions are not based on personal judgment but on predefined standards and criteria. Therefore, decisions become more traceable and grounded through established organizational norms.

3. Methodology

Research design. This research utilized the qualitative approach, specifically its exploratory case study design. Various authors, such as Swedberg (2020) and Hossain (2011), argue that exploratory case study design is conducted when there is limited knowledge about a research issue. It aims to gain insights that can guide further research. Given the minimal research dealing with the empirical application of wide latitude of discretion in personnel selection, the best design is provided by an exploratory case study. This design will permit an in-depth investigation of this under-researched area and provide insight into how and why discretion is practiced.

Population and Locale of the Study. The study was conducted in one of the Government Line Agencies in Baguio City, Philippines. The line agency has a total of 616 personnel. Using the purposive sampling technique, the 08 participants in the study were selected based on the set criteria: must be directly involved in the agency's recruitment process and willing to participate in the study. To maintain the rigor and validity of this research, document analysis was performed to supplement gathered data while validating participants' claims.

Data gathering instrument. An interview guide questionnaire that has undergone validation from 03 social sciences experts was utilized in gathering data. The interviews were scheduled according to the convenience of the key informants and were conducted face-to-face on various days from 2020 to 2021. Document archiving was also carried out during those years. The archival includes reports and records of the line agency from 2015 to 2019.

Data gathering procedure. Approval to conduct the study was first sought from the case agency. Upon acceptance of the study's conduct, individual informed consent was also obtained from the informants; consequently, key informant interviews were conducted individually at their most convenient time and place. Relevant documents were also gathered and reviewed, and part of the analyzed data was formed.

Data treatment. The data gathered in the interview were treated using thematic analysis. Braun and Clarke (2006) suggest that thematic analysis is a process of identifying and analyzing patterns within the data. Specifically, Miles's data analysis model, as cited in Wa-Mbaleka (2018), was used in the data analysis. First, the researchers have transcribed the data verbatim. Second, data was condensed. In this process, the researchers read and re-read the transcriptions and then excluded irrelevant data. Third, data were organized and presented in a tabular form following the research questions. Fourth, the researchers have analyzed patterns and categories. Fifth, the researchers have assigned themes to the generated categories. Lastly, the researchers initially wrote the results. The results were taken to the participants for member checking before it was finalized.

4. Result and discussion

4.1. Result

4.1.1. How vast is the latitude of discretion of the appointing authority?

Table 1 presents the matrix of the appointed employees. The study included only five years from 2015 to 2019, as these years were the pick of the hiring and promotion in the history of the national line agency due to the Rationalization Plan. In five years, there were 1,394 employees hired. Of the total, rank 5 applicants were hired or promoted, followed by rank 4, then ranked 2, 3, and 1, respectively. Unexpectedly, rank 1 is almost six times outnumbered by

rank 5, meaning more employees hired or promoted landed in the 5th rank than those who got the 1st rank. This implies that the latitude of discretion of the appointing Officer is used up to the fourth and fifth ranks of applicants. This further means that the discretion is used up to its legal limitations of rank 5, to which this is being maximized. Still, it supports the assertion of Karabasevic et al. (2016) that personnel selection involves a screening and sorting process in which candidates with the least potential are differentiated from those with higher potential. Thus, even the second, third, fourth, or fifth are equally deserving.

Further, data shows that the lowest number of hired or promoted employees ranked 1st was in 2017, with only five, and in 2019, with only eight. This trend was explained by one of the key informants, a human resource officer saying:

“Idi 2017 to 2019, Naka develop en ti friendly relationship with politicians ditoy jay appointing Officer. These times, ado ti nag ala ti recommendation ti politicians ken in submit da with the application”.

[During 2017 to 2019, the appointing officer had already developed friendships with politicians. These times, many have sought recommendations from politicians and submitted them together with their application].

However, another Key Informant, a member of the Performance Evaluation Board (PSB), has recalled that the appointing authority did not mind the written recommendations except those recommendations of the Congressman and Governor through personal phone calls who are among the top five in the Comparative Evaluation Result (CER):

“Ada talaga ti applicants nga nagcollect ti recommendations iti amin nga mayors ti Benguet, pati Congressman tapos in attached da ejay applications da. Ngem uray ada recommendations nga Naka attach, in disregard ni appointing authority uray isu ti normal tatan when it comes to appointing with recommendations”.

[Some applicants collected recommendations from all mayors in the province to include the Congressman and then attached these to their application. Even if recommendations were attached to some applications, the appointing authority has disregarded this bulk amidst the becoming normalcy on appointing those with recommendations].

Table 1

Matrix Showing the Application of Latitude of Discretion

Year	No. of vacant positions	No. of Ranked 1 who were appointed	No. of Ranked 2 who were appointed	No. of Ranked 3 who were appointed	No. of Ranked 4 who were appointed	No. of Ranked 5 who were appointed
2015	600	39	51	73	167	270
2016	356	16	26	47	82	185
2017	237	8	63	49	69	48
2018	139	20	62	15	34	8
2019	62	5	14	20	16	7
TOTAL	1,394	88 ⁵	216 ³	204 ⁴	368 ²	518 ¹

Source. Generated from the official documents reviewed by researchers

To this effect, with or without recommendations from politicians, the discretionary power of the appointing officer as specified in the Omnibus Rules on Appointments and Other Human Resource Actions (ORAOHRA) (Civil Service Commission, 2018) is in effect. This upholds Chouhan's (2019) claim that choosing between options is a preference. It is also important to note that the ORAOHRA, which was declared a significant move for merit-based selection, was approved in 2017.

4.1.2. Justifications of the appointing authority in using the wide latitude of discretion

Table 2 presents the justifications for using the wide latitude of discretion by the appointing authority from 2015 to 2019. The table contained two justification themes from the appointed officer's written justifications: 1) good attitude matters, and 2) experience is a plus.

Good attitude matters. This theme was among the most numbered justifications the appointing Officer has referenced. As claimed, educational qualifications, knowledge, experiences, and skills may be there, but a good attitude is essential in an organization. As mentioned by the appointing officer, attitude includes willingness to learn, dedication, a sense of volunteerism, and consistency. The informant proceeded with free-flowing narrations as quoted verbatim:

A good attitude is essential. No one can contest it. It should not be taken for granted because, in an organization, teamwork is what makes the organization sail. If an employee is not a team player, they will row in other directions. It will delay the organization's operations. We must remember that many qualified, competent, and skilled applicants exist today. As an appointing Officer, what would be the basis of your selection if they are all qualified, competent, and professional? What makes others shine over the other contenders? It's the attitude.

Table 2

Justifications of the Appointing Authority in Using the Wide Latitude of Discretion

Justification theme	Specific justifications
Good Attitude matters	<ul style="list-style-type: none"> • Based on her interest and her willingness to learn • Exceptional and tested attitude in the execution of their work (consistency) • Dedication and a sense of volunteerism are the traits that they consistently displayed in the discharge of their duties
Experience is a plus.	<ul style="list-style-type: none"> • Previously became an officer-in-charge in the same position being applied for • With various experiences, he has been a multi-tasker even before the announcement of the promotion vacancy

Source. Generated from the responses of participants and reviewed documents

Based on his narration, the appointing officer has high regard and value for good working relationships. He claims that there are many qualified, competent, and skilled applicants, but their attitude makes others shine over the other contenders. That is, in an organization, attitude matters.

Experience is a plus. This study revealed that it was the firm belief of the appointing officer that people who have been multi-tasking due to multiple designations have honed their skills, aside from showing their passion and volunteerism. They have already proven themselves as productive officers in charge. The written justification of the appointing Officer supports this:

The people who held positions as OIC already knew how to run the office. This has honed their skills and knowledge enough to prepare them to perform the more challenging task of a technical Division Chief.

4.2. Discussion

4.2.1. On the practice of wide latitude of discretion

Despite the rigorous recruitment process to come up with the ranking of the applicants from posting vacancies, initial screening of those who passed the minimum requirements, the conduct of aptitude or similar examination, to panel interviews, the finding, as reflected in Table 1 indicate that the majority of ranked five were hired compared to higher-ranked applicants. This suggests that the appointing officer of a line agency in Baguio City has maximized its latitude of discretion up to the rank 5 limit. Legally, the appointing officer of any government organization could select from the top 1 to 5 applicants.

Although this practice is allowed, it raises controversies; notably, ranked five applicants were selected more frequently than higher-ranked ones. This finding suggests that the practice of wide latitude of discretion by the appointing officer deviates from Max Weber's Bureaucratic Theory, which asserts that while discretion is necessary, it must not undermine the principles of rule-based meritocracy. The result contributes to the discussion on balancing discretion and merit for personnel selection and recruitment. It presents empirical evidence on how discretion is exercised in practice that can duly inform future policies and reforms. This insight is critical in government settings, given that transparency and fairness are imperative for public trust and, consequently, organizational effectiveness.

4.2.2. On the justifications used by the appointing officer

While most merit-based systems emphasize formal qualifications and test scores, data revealed that factors such as "attitude" and "work experience" remain key components of the selection by the appointing officer. The study showed that appointing officers are using their discretionary authority to consider attributes that they think were not fully captured by the ranking systems despite that the educational attainment, experiences, aptitude, and training of the applicants were already included in the computation of the rankings. This finding implies that such discretion brings in specific issues of consistency and transparency in the selection process.

On good attitude. Notably, background investigation and character referencing are conducted in the ranking process by the Human Resource Merit Promotion and Selection Board (HRMPSB), and these form part of the screening process before a list of the top five is forwarded to the appointing officer for selection and appointment. Yet, the study has revealed that a "good attitude" is one reason the appointing officer appoints rank five over rank one. This implies that the appointing officer may prefer a higher weight or percentage for the attitudinal part of the assessment.

This paper argues that a good attitude as justification in hiring an employee from ranks one to five may be considered as good faith acting reasonably and on reasonable grounds, as this is in line with the argument of Massis (2015) that hiring should be based on attitude and later training for skills. This flow of thought also supports Williamson's managerial discretionary theory (Economic Basics, n. d.), which believes some are using discretion power in the name of teamwork within the organization.

However, this paper also argues that a good attitude as a justification may not be fair for other applicants. To say that the other applicant has a better attitude than the other, there has to

be a comparison or baseline data of the attitude of all the applicants. One applicant having a good attitude does not mean the other applicants do not possess a good attitude. In the fair hiring process, they should all be allowed to prove they have a good attitude, or the HRMPSB, to this effect, may conduct a thorough character inquiry or personality test and attach it to the list of the top five to be forwarded to the appointing officer. This will aid the appointing officer in his informed decision-making.

On experience. Despite the inclusion of the experience in the applicants' comparative assessment form, it is still identified by the key informants as one of the decision-making factors in appointing. As claimed, applicants from inside the organization are more likely to be appointed than outsiders as the appointing officer considers the applicant's experience in the same organization and/or the positions they are applying for. This includes being an officer-in-charge. This indicates that the appointing officer considers the given weight or percentage of "experience" in the comparative assessment tool as low; hence, despite its inclusion in the ranking criteria, it was still identified as one of the reasons for appointing lower-ranked applicants. This suggests a review of the tool used in ranking applicants, specifically regarding the weight or percentage of the experience. This also calls for a review and possible detailed rubrics for the "relevant experience," such that experience as an Officer-in-charge in the same organization and of the position being applied for may be given more significant points. This idea is in line with Larson and Hewitt's (2012) assertions that employing years of experience as the minimum standard is considered an outdated approach in recruitment. Hence, as implied in Max Weber's Bureaucratic Theory and Administrative Control Theory, providing more detailed assessment rubrics to differentiate "experiences" is needed. Weber's theory argues that a structured, rule-based approach should ensure fairness, consistency, and meritocracy. This is furthered by the Administrative Control Theory (ACT), which emphasizes the importance of clear-cut guidelines.

5. Conclusions and recommendations

The discretionary power provided to the appointing officer is often maximized. In the top five qualified applicants, most of those appointed belong to the lower ranks- ranks two to five. Factors such as "good attitude" and "experience" significantly influence appointing decisions despite these being included in the screening tool.

The study recommends refining recruitment policies to be more competency-based by strengthening the conduct of character inquiry/personality or emotional intelligence tests and explicitly including its result in the comparative assessment form. It is further recommended that a detailed rubric in rating experiences or "relevant" experiences be crafted so that experience as an officer in charge in the same position being applied for may be given more prominent points than experience elsewhere. Organizations can enhance fairness and transparency by aligning with the principles of PRIME-HRM, particularly competency-based recruitment. Developing clear policies that specify how discretionary decisions are to be justified and documented will ensure that subjective evaluations complement formal metrics. This approach is essential for fostering a fair and objective hiring process.

To the academic community that prepares the future workforce, it is also worth noting that a "good attitude" such as volunteerism, dedication, willingness to learn, and consistency are among the qualities that employers have been considering in appointing personnel aside from other factors such as education, training, and experiences. It is then recommended that students' attitudes be enhanced as part of the curriculum.

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